

CITY OF RICHFIELD, MINNESOTA

TUESDAY, JUNE 24, 2014

RICHFIELD MUNICIPAL CENTER  
6700 PORTLAND AVENUE

\*\*\*\*\*

SPECIAL CITY COUNCIL WORKSESSION

BARTHOLOMEW ROOM

6:15 P.M.

AGENDA

Call to order

1. Discussion regarding branding (Council Memo No. 62)

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Adjournment

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REGULAR CITY COUNCIL MEETING

COUNCIL CHAMBERS

7:00 P.M.

AGENDA

INTRODUCTORY PROCEEDINGS

Call to order

Open forum (15 minutes maximum)

***Each speaker is to keep their comment period to three minutes to allow sufficient time for others. Comments are to be an opportunity to address the Council on items not on the agenda. Individuals who wish to address the Council must have registered prior to the meeting.***

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pledge of Allegiance

Approval of the minutes of the (1) Special City Council Meeting of June 10, 2014 and (2) Regular City Council Meeting of June 10, 2014

PRESENTATION

1. Consideration of a resolution authorizing the acceptance of a grant from CenterPoint Energy to the Richfield Fire Department for the purchase of carbon monoxide detectors and a carbon monoxide oximeter

Staff Report No. 109

Notes: \_\_\_\_\_

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### COUNCIL DISCUSSION

2. Council discussion
  - Hats Off to Hometown Hits

Notes: \_\_\_\_\_

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### AGENDA APPROVAL

3. Council approval of the agenda
4. **Consent Calendar contains several separate items, which are acted upon by the City Council in one motion. Once the Consent Calendar has been approved, the individual items and recommended actions have also been approved. No further Council action on these items is necessary. However, any Council Member may request that an item be removed from the Consent Calendar and placed on the regular agenda for Council discussion and action. All items listed on the Consent Calendar are recommended for approval.**
  - A. Consideration of the approval of an annual request for a temporary on-sale intoxicating liquor license for the activities scheduled on July 4, 2014 for the Minneapolis-Richfield American Legion Post #435, 6501 Portland Avenue S.R. No. 110
  - B. Consideration of the approval of an annual request for a community celebration event license and a temporary on-sale intoxicating liquor license, with a fee waiver, for the Fourth of July Committee for the annual events scheduled at Veterans Memorial Park on July 1-5, 2014 S.R. No. 111
  - C. Consideration of approval of a resolution authorizing the lawful gambling premises permit application for the Fred Babcock VFW Post #5555 to conduct lawful gambling at the Minneapolis-Richfield American Legion Post #435, 6501 Portland Avenue S.R. No. 112
  - D. Consideration of the approval of a resolution authorizing the execution of an amended Joint Cooperation Agreement between the City of Richfield and Hennepin County for the participation in the Urban Hennepin County Community Development Block Grant program for fiscal years 2015-2017 S.R. No. 113
  - E. Consideration of the approval of an amendment to the commercial lease with the Minnesota Department of Transportation and amendment to the license agreement with the Transmission Shop, Inc. for the parking lot at Cedar Avenue and Diagonal Boulevard S.R. No. 114
  - F. Consideration of the approval of setting a public hearing on July 22, 2014 regarding the issuance of new on-sale intoxicating and Sunday liquor licenses with the optional 2 a.m. closing for Last Call Operating Co II, Inc., d/b/a Champps Americana, 790 66<sup>th</sup> Street West S.R. No. 115

Notes: \_\_\_\_\_

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5. Consideration of item(s), if any, removed from Consent Calendar

Notes: \_\_\_\_\_

## CITY MANAGER'S REPORT

### 6. City Manager's Report

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### 7. Claims and payrolls

Open forum (additional 15 minutes if more time needed after first Open Forum and by majority vote of the City Council)

***Each speaker is to keep their comment period to three minutes to allow sufficient time for others. Comments are to be an opportunity to address the Council on items not on the agenda. Individuals who wish to address the Council must have registered prior to the meeting.***

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### 8. Adjournment

**Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.**

**CITY OF RICHFIELD, MINNESOTA**  
Office of City Manager

June 19, 2014

Council Memorandum No. 62

The Honorable Mayor  
and  
Members of the City Council

Subject: Discussion Regarding Branding  
(Worksession Agenda Item No. 1)

Council Members:

The Richfield Tourism Promotion Board, the Richfield Chamber of Commerce and the City of Richfield have jointly embarked on an effort to review and update the "Brand" of the City of Richfield. The Richfield Tourism Promotion Board (RTPB) engaged the NemerFieger advertising firm to complete the first phase of the branding project. NemerFieger has done similar corporate branding work in the past. The cost of the first phase was paid for by the RTPB.

The first phase of the branding exercise is now complete and before embarking on the next phase of the project, Tom Whelen, NemerFieger, will present a summary of work done in Phase I.

Mr. Whelen will cover the following:

- How we came to look at Branding and Identity for Visit Richfield, Richfield Chamber and the City of Richfield
- Collecting impressions of Richfield
  - First from the Visit Richfield group and special guests
  - Subsequently from two focus groups
    - Business community (people who work at or own Richfield businesses)
    - Residents
- Developing a Logo/Identity
  - What happened/didn't happen in Austin
  - A look at other city logos/marks
  - Color palettes from which we might work
  - Sample taglines that can give us indicators for what form the logo might take
- Next steps

Mr. Whelen hopes to make this an interactive discussion.

Respectfully submitted,



Steven L. Devich  
City Manager

SLD:sld  
Email: Department Directors  
Assistant City Manager



# CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

## Special City Council Meeting Advisory Board/Commission Applicant Interviews

June 10, 2014

### CALL TO ORDER

The meeting was called to order by Mayor Goettel at 6:15 p.m. in the Babcock Room.

**MEMBERS PRESENT:** Debbie Goettel, Mayor; Suzanne Sandahl; Edwina Garcia; Pat Elliott; and Tom Fitzhenry.

### INTERVIEW OF APPLICANTS

The City Council conducted interviews of the following applicants for appointment to a City Advisory Board and Commission:

Celestin Radison  
Robert Hall  
Dan Edgerton  
Andy Kahn

Frank Juskulke  
Linda Vigen  
Alison Groebner

### ADJOURNMENT

The meeting was adjourned by unanimous consent at 7:05 p.m.

Date Approved: June 24, 2014.

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Debbie Goettel  
Mayor

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Cheryl Krumholz  
Executive Coordinator

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Pam Dmytrenko  
Acting City Manager



# CITY COUNCIL MEETING MINUTES

## Richfield, Minnesota

### Regular Meeting

**June 10, 2014**

#### CALL TO ORDER

The meeting was called to order by Mayor Goettel at 7:06 p.m.

*Members Present:* Debbie Goettel, Mayor; Sue Sandahl; Pat Elliott; Edwina Garcia; and Tom Fitzhenry.

*Staff Present:* Pam Dmytrenko, Acting City Manager; Mike Eastling, Public Works Director; Jim Topitzhofer, Recreation Services Director; Jay Henthorne, Acting Public Safety Director; Chris Regis, Finance Manager; Jeff Pearson, Transportation Engineer; Mary Tietjen, City Attorney; and Cheryl Krumholz, Executive Coordinator.

#### OPEN FORUM

Susan Myers, 6226 Fourth Avenue, representing Richfield Open Space, spoke in opposition to the proposed band shell location in Veterans Memorial Park and encouraged the City to work with the Lyndale Garden Center developer to have a band shell at their location. She requested the City Council reconsider the use of public funds and donations and schedule a date for a public discussion and vote.

Kathy Kline, 6312 Portland Avenue, agreed with the comments of Ms. Myers and requested the City Council remember their role and civil discourse as representatives of the citizens.

Carol Propotnik, 6400-11<sup>th</sup> Avenue, spoke in opposition to the proposed band shell location in Veterans Memorial Park and asked the City Council to keep the green space because it is an important resource.

Jeff Wright, 136 East 70<sup>th</sup> Street, agreed with the comments of the previous speakers and stated it does not make economic sense to have a band shell in Veterans Memorial Park since there is already a band shell being proposed at the Lyndale Garden Center redevelopment site.

Jim Grupe, 7609 Second Avenue, spoke in opposition to the band shell in Veterans Memorial Park because it could detract from the Honoring All Veterans Memorial and agreed with the location at the Lyndale Garden Center redevelopment site. He stated the funds could be used to improve overall park maintenance.

#### PLEDGE OF ALLEGIANCE

Mayor Goettel led the audience in the Pledge of Allegiance.

**APPROVAL OF MINUTES**

M/Garcia, S/Elliott to approve the minutes of the Regular City Council Meeting of May 27, 2014.

Motion carried 5-0.

<b>Item #1</b>	<b>PRESENTATION OF THE GENE AND MARY JACOBSEN OUTSTANDING CITIZEN OF THE YEAR AWARD TO SUSIE LUTTENEGGER (COUNCIL MEMO NO. 58)</b>
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Kim Jacobsen, son of Gene and Mary Jacobsen, presented the award.

<b>Item #2</b>	<b>PRESENTATION ANNUAL MEETING WITH THE HUMAN RIGHTS COMMISSION</b>
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Sean Hayford OLeary, Chair, and Deborah Eng, Vice Chair, presented the annual report.

<b>Item #3</b>	<b>COUNCIL DISCUSSION</b> <ul style="list-style-type: none"><li>• City Council Meeting schedule<ul style="list-style-type: none"><li>✓ Cancel or reschedule the August 12, 2014 Regular City Council Meeting due to the Primary Election</li><li>✓ Schedule a Special City Council Meeting to discuss the 2014 Revised/2015 Proposed Budget</li></ul></li><li>• Hats Off to Hometown Hits</li></ul>
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Mayor Goettel recognized the appointment of Jay Henthorne as Acting Public Safety Director/Acting Police Chief.

The City Council canceled the August 12, 2014 Regular City Council Meeting; scheduled the Special Council Meeting to discuss the budget on Wednesday, September 3, 2014 at 6 p.m.; and scheduled a Special Concurrent City Council and Transportation Commission Worksession on Wednesday, July 9, 2014 at 7 p.m. to discuss the proposed 66<sup>th</sup> Street project.

<b>Item #4</b>	<b>COUNCIL APPROVAL OF AGENDA</b>
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M/Fitzhenry, S/Elliott to approve the agenda.

Motion carried 5-0.

<b>Item #5</b>	<b>CONSENT CALENDAR</b>
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- A. Consideration of the approval of a resolution authorizing the acceptance of a \$200 grant from O'Reilly Auto Parts to the Richfield Fire Department S.R. No. 100

## RESOLUTION NO. 10939

## RESOLUTION AUTHORIZING ACCEPTANCE OF A GRANT RECEIVED BY THE CITY OF RICHFIELD FIRE DEPARTMENT FROM O'REILLY AUTO PARTS

This resolution appears as Resolution No. 10939.

- B. Consideration of the approval of a resolution authorizing the acceptance of a \$5,774 grant from the U.S. Department of Agriculture to the Richfield Recreation Services Department to administer the funds in accordance with the grant agreement to operate the Supplemental Nutrition Assistance Program at the Richfield Farmers Market S.R. No. 101

## RESOLUTION NO. 10940

## RESOLUTION AUTHORIZING ACCEPTANCE OF A GRANT FROM THE U.S. DEPARTMENT OF AGRICULTURE IN THE AMOUNT OF \$5,774, AND AUTHORIZING RECREATION SERVICES STAFF TO ADMINISTER THE FUNDS IN ACCORDANCE WITH GRANT AGREEMENT AND TERMS PRESCRIBED BY DONORS, TO OPERATE THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AT THE RICHFIELD FARMERS MARKET

This resolution appears as Resolution No. 10940.

- C. Consideration of the approval of resolutions establishing an absentee ballot counting board, authorizing the use of the ES&S Central Counter Model DS850 for the tabulation of all absentee ballots, and appointing election judges for the August 12, 2014 Primary Election and the November 4, 2014 General Election S.R. No. 102

## RESOLUTION NO. 10941

## RESOLUTION ESTABLISHING AN ABSENTEE BALLOT COUNTING BOARD FOR THE STATE PRIMARY AND GENERAL ELECTIONS

This resolution appears as Resolution No. 10941.

## RESOLUTION NO. 10942

## RESOLUTION APPROVING ABSENTEE BALLOT COUNTING EQUIPMENT, ES&amp;S CENTRAL COUNTER MODEL DS850 TO BE USED AT THE STATE PRIMARY AND STATE GENERAL ELECTIONS

This resolution appears as Resolution No. 10942.

## RESOLUTION NO. 10943

## RESOLUTION APPOINTING ELECTION JUDGES FOR THE STATE PRIMARY ELECTION OF AUGUST 12, 2014 AND THE GENERAL ELECTION OF NOVEMBER 4, 2014

This resolution appears as Resolution No. 10943.

- D. Consideration of the approval of a lease agreement with Verizon Wireless to construct a monopole antenna tower on City property at the Central Maintenance Facility S.R. No. 103
- E. Consideration of the approval of Change Order No. 1 in the amount of \$103,265.64 to Northwest Asphalt, Inc. for the North Richfield Parkway Project S.R. No. 104



M/Goettel, S/Fitzhenry to approve the Consent Calendar.

Motion carried 5-0.

Item #6	CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM THE CONSENT CALENDAR
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None.

Item #7	<p>CONSIDERATION OF THE:</p> <ul style="list-style-type: none"><li>• ACCEPTANCE OF THE BID MINUTES/TABULATION AND AWARD OF CONTRACT TO BELAIR BUILDERS, INC. IN THE AMOUNT OF \$915,947 FOR THE TAFT LAKE/LEGION LAKE WATERSHED QUALITY IMPROVEMENT PROJECT;</li><li>• AUTHORIZATION FOR THE CITY MANAGER TO APPROVE CONTRACT CHANGES UP TO \$100,000 WITHOUT FURTHER CITY COUNCIL AUTHORIZATION; AND</li><li>• APPROVAL OF CHANGE ORDER NO. 1 IN THE AMOUNT OF \$115,220 TO ELIMINATE THE IRRIGATION SYSTEM NEAR LEGION LAKE TO REDUCE THE TOTAL CONTRACT AMOUNT TO \$800,727 S.R. NO. 105</li></ul>
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Council Member Fitzhenry presented Staff Report No. 105.

M/Fitzhenry, S/Sandahl to approve acceptance of the bid minutes/tabulation and award of contract to Belair Builders, Inc. in the amount of \$915,947 for the Taft Lake/Legion Lake Watershed Quality Improvement Project; authorize the City Manager to approve contract changes up to \$100,000 without further City Council authorization; and approve Change Order No. 1 in the amount of \$115,220 to eliminate the irrigation system near Legion Lake to reduce the total contract amount to \$800,727.

Motion carried 5-0.

Item #8	CONSIDERATION OF THE KIMLEY-HORN AND ASSOCIATES, INC. WORK PROPOSAL FOR THE FINAL DESIGN AND COORDINATION SERVICES FOR THE PORTLAND AVENUE RECONSTRUCTION PROJECT BETWEEN 67 <sup>TH</sup> AND 77 <sup>TH</sup> STREET AT A COST NOT TO EXCEED \$383,950 S.R. NO. 106
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Council Member Garcia presented Staff Report No. 106.

M/Garcia, S/Sandahl to approve the Kimley-Horn and Associates, Inc. work proposal for the final design and coordination services for the Portland Avenue Reconstruction project between 67<sup>th</sup> and 77<sup>th</sup> Street at a cost not to exceed \$383,950.

Motion carried 5-0.

Item #9	CONSIDERATION OF THE FORMATION OF AN ADVISORY WORKGROUP, AS RECOMMENDED BY THE COMMUNITY SERVICES COMMISSION, TO ASSIST IN THE CREATION OF VISUAL QUALITY GUIDELINES FOR USE IN THE DESIGN OF THE COUNTY ROAD RECONSTRUCTION PROJECTS S.R. NO. 107
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Council Member Elliott presented Staff Report No. 107.

M/Elliott; S/Fitzhenry to approve the formation of an advisory workgroup, as recommended by the Community Services Commission, to assist in the creation of Visual Quality Guidelines for use in the design of the County Road Reconstruction Projects.

Transportation Engineer Pearson provided an update on the projects.

Council Member Elliott stated the reconstruction of 66<sup>th</sup> Street should also address regional traffic patterns, including Crosstown 62.

Motion carried 5-0.

<b>Item #10</b>	<b>CONSIDERATION OF AN APPOINTMENT TO THE PLANNING COMMISSION S.R. NO. 108</b>
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Council Member Sandahl presented Staff Report No. 108.

M/Sandahl, S/Goettel to appoint the following persons to the City Advisory Commissions:

#### **PLANNING COMMISSION**

<u>Name</u>	<u>Term Expires</u>
Alison Groebner	January 31, 2015

#### **COMMUNITY SERVICES COMMISSION**

<u>Name</u>	<u>Term Expires</u>
Celestin Radison	January 31, 2016

#### **ARTS COMMISSION**

<u>Name</u>	<u>Term Expires</u>
Linda Vigen	January 31, 2017

Motion carried 5-0.

<b>Item #11</b>	<b>CITY MANAGER'S REPORT</b>
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None.

<b>Item #12</b>	<b>CLAIMS AND PAYROLLS</b>
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M/Fitzhenry, S/Sandahl that the following claims and payrolls be approved:

<b>U.S. Bank</b>		<b>06/10/14</b>
A/P Checks: 231643-232035	\$	1,297,397.85
Payroll: 101765-102119	\$	572,162.41
TOTAL	\$	1,869,560.26

Motion carried 5-0.

**OPEN FORUM**

None.

**ADJOURNMENT**

The City Council meeting was adjourned by unanimous consent at 8:14 p.m.

Date Approved: June 24, 2014

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Debbie Goettel  
Mayor

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Cheryl Krumholz  
Executive Coordinator

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Pam Dmytrenko  
Acting City Manager



**STAFF REPORT**  
**CITY COUNCIL MEETING**  
**JUNE 24, 2014**

REPORT PREPARED BY:

WAYNE KEWITSCH, FIRE CHIEF

DEPARTMENT DIRECTOR REVIEW:



*NAME TITLE*  
*SIGNATURE*

OTHER DEPARTMENT REVIEW:



N/A

REVIEWED BY CITY MANAGER:



*SIGNATURE*

**ITEM FOR COUNCIL CONSIDERATION:**

Consideration of a resolution authorizing acceptance of a grant received by the Richfield Fire Department from Centerpoint Energy and to authorize deposit of the grant in the General Fund to be utilized by the Fire Department for the purchase of carbon monoxide detectors and a carbon monoxide oximeter.

**I. RECOMMENDED ACTION:**

**By Motion: Approve resolution authorizing acceptance of a grant to the Fire Department from Centerpoint Energy and deposit funds in the General Fund to be utilized by the Fire Department for the purchase of carbon monoxide detectors and a carbon monoxide oximeter .**

**II. EXECUTIVE SUMMARY**

Centerpoint Energy has developed the Centerpoint Energy Community Partnership Grant program which helps fund the public safety needs of communities in their service area. The Fire Department applied for and was awarded a \$2,500.00 grant to help fund the purchase of carbon monoxide detectors and a carbon monoxide oximeter. Frequently, patients present with signs and symptoms of the flu but in reality are suffering from carbon monoxide poisoning. While the Fire Department carries advanced gas detection equipment, these carbon monoxide detectors will be used on every EMS call. This combination of equipment will help firefighters deliver

a more robust response to this type of call. Donations received by the City require acceptance via a resolution acted upon by the City Council.

### III. BASIS OF RECOMMENDATION

#### A. BACKGROUND

- Centerpoint Energy will be making a donation of \$2500.00 to the Richfield Fire Department at the June 24, 2014 city council meeting.
- The grant funds were made with the stipulation to purchase carbon monoxide detectors and a carbon monoxide oximeter.

#### B. POLICY

- City policy requires that all grants to the City to be accepted by a Council resolution.
- Minnesota Statute §465.03 requires that the resolution receive at least a two-thirds majority.

#### C. CRITICAL TIMING ISSUES

- None

#### D. FINANCIAL

- Grant funds are restricted and will be used by the Fire Department to purchase carbon monoxide detectors and a carbon monoxide oximeter.
- The grant also stipulates that the funds cannot cover more than 50% of a funded project. The Fire Department estimates that the total cost of the equipment purchased will be \$5,700.00 requiring a match of \$3,200.00.
- The Fire Department budget will accommodate an expenditure of the \$3,200.00 in matching funds.
- The funds will be deposited in the General Fund for use by the Fire Department.

#### E. LEGAL

- Minnesota Statute § 465.03 requires that every acceptance of a grant or devise of real or personal property by Council resolution passed by at least a two-thirds majority.

#### F. ENVIRONMENTAL CONSIDERATIONS

- None

### IV. ALTERNATIVE RECOMMENDATION(S)

- None

### V. ATTACHMENTS

- Council Resolution

### VI. PRINCIPAL PARTIES EXPECTED AT MEETING

- A representative(s) from Centerpoint Energy to present a check to the City.

**RESOLUTION NO.**

**RESOLUTION AUTHORIZING ACCEPTANCE OF A GRANT RECEIVED BY THE  
CITY OF RICHFIELD FIRE DEPARTMENT FROM CENTERPOINT ENERGY**

**WHEREAS**, the City of Richfield received a check from Centerpoint Energy in the amount of \$2,500.00 designated to the Richfield Fire Department; and,

**WHEREAS**, Centerpoint Energy has a charitable donation program in which funds are donated to a community as part of the Centerpoint Energy Community Partnership Grant program; and,

**WHEREAS**, the terms of the grant require that the grant not cover more than fifty percent of an awarded project; and,

**WHEREAS**, Minnesota Statute requires every acceptance of a grant or devise of real or personal property on terms prescribed by the donor be made by resolution of more than two-thirds majority of the City Council; and,

**WHEREAS**, the donated funds will be used towards the purchase of carbon monoxide detectors and a carbon monoxide oximeter for the Richfield Fire Department.

; and

**NOW, THEREFORE, BE IT RESOLVED** that the City will accept the donation of \$2,500.00 from Centerpoint Energy to be placed in the General fund account and used to purchase equipment for the Richfield Fire Department.

Adopted by the City Council of the City of Richfield, Minnesota this 24th day of June, 2014.

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Debbie Goettel, Mayor

ATTEST:

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Nancy Gibbs, City Clerk

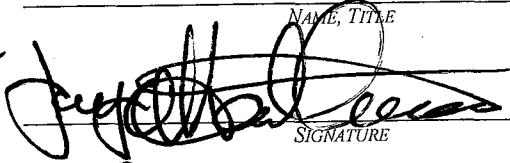
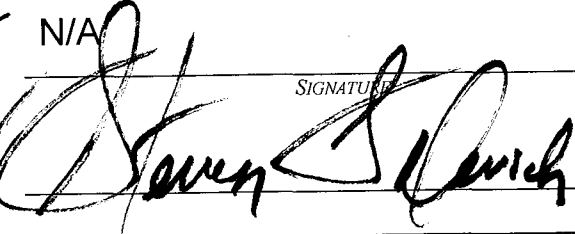


AGENDA SECTION: CONSENT  
AGENDA ITEM # 4A  
REPORT # 110

## STAFF REPORT

### CITY COUNCIL MEETING

JUNE 24, 2014

REPORT PREPARED BY:	BETSY OSBORN, SUPPORT SERVICES MANAGER
DEPARTMENT DIRECTOR REVIEW:	<input checked="" type="checkbox"/>  NAME, TITLE SIGNATURE
OTHER DEPARTMENT REVIEW:	<input checked="" type="checkbox"/> N/A SIGNATURE
REVIEWED BY CITY MANAGER:	<input checked="" type="checkbox"/>  SIGNATURE

#### ITEM FOR COUNCIL CONSIDERATION:

Consideration of an annual request for a temporary on-sale intoxicating liquor license for the activities scheduled to take place July 4, 2014, for the Minneapolis-Richfield American Legion Post #435, located at 6501 Portland Avenue South.

- I. RECOMMENDED ACTION:  
**By Motion: Approve a temporary on-sale intoxicating liquor license for the Minneapolis-Richfield American Legion Post #435, located at 6501 Portland Avenue South for the activities scheduled to take place on July 4, 2014.**

#### II. EXECUTIVE SUMMARY

On May 29, 2014, the City received an application for temporary on-sale intoxicating liquor license for the Minneapolis-Richfield American Legion Post #435. Their plans are to have an open house with a live band located outside on their property. This request is an annual request and is in conjunction with the Richfield Fourth of July Celebration. All required information and documents have been provided. All licensing fees have been received.

### III. BASIS OF RECOMMENDATION

#### A. BACKGROUND

On May 29, 2014, the Minneapolis-Richfield American Legion Post #435 submitted their request for a temporary license to serve on-sale intoxicating liquor for the Fourth of July activities.

This request is in conjunction with the Richfield Fourth of July Celebration and is being organized by the Fourth of July Committee. The American Legion plans to have an open house with a live band located outside on their property and would like to serve refreshments, including alcohol.

This year the Legion is requesting a temporary on-sale intoxicating liquor license, opposed to the 3.2 percent malt liquor license they have requested in years prior.

The applicant has satisfied the following requirements for issuance of these licenses:

- The required licensing fee has been paid.
- Proof of liquor liability insurance has been submitted showing Integrity Mutual Insurance Company affording the coverage.
- The applicant has contacted the sanitarians from the City of Bloomington to ensure proper food handling practices are followed.
- Private security has been hired by the American Legion to patrol the area for this event.

#### B. POLICY

- Richfield City Code Section 1202.05 requires all applicants to comply with all of the provisions of this code, as well as the provisions of Minnesota Statute Chapter 340A.

#### C. CRITICAL TIMING ISSUES

- The sale of intoxicating liquor must cease no later than midnight.
- The applicant must adhere to the traffic and parking conditions set by the Public Safety Department.

#### D. FINANCIAL

- The required licensing fees have been received.

#### E. LEGAL

- N/A



F. ENVIRONMENTAL  
CONSIDERATIONS

- N/A

IV. ALTERNATIVE RECOMMENDATION(S)

- The Council could decide to deny the requested license, which would mean the applicant would not be able to serve alcohol outside to the public during the Fourth of July festivities.

V. ATTACHMENTS

- Summary of traffic and parking conditions set by the Public Safety Department.

VI. PRINCIPAL PARTIES EXPECTED AT  
MEETING

- John Wortman, Legion Manager, has been notified of the date for Council consideration of this request.

# **SUMMARY OF TRAFFIC AND PARKING CONDITIONS FOR MINNEAPOLIS RICHFIELD AMERICAN LEGION POST 435**

## **4<sup>TH</sup> OF JULY EVENT**

Richfield Public Safety staff has spoken with management from the American Legion to address some specific Public Safety issues and concerns. As a condition of the approval of their license it was decided Portland Avenue will be closed from 8:00 p.m. to 12:00 a.m. In addition, 66<sup>th</sup> Street will also shut down between the hours of 11:00 a.m. to 11:30 p.m. No through traffic will be allowed on 66<sup>th</sup> Street and Portland Avenue and all traffic will be routed away from the event. American Legion patrons will be allowed to enter the Legion parking lot until approximately 8:00 p.m. when Portland Avenue closes. Patrons will not be allowed to leave the Legion parking lot after 8:00 p.m. All patrons parked in the lot at 8:00 p.m. will be required to remain in the lot until 11:15 p.m. when all pedestrian traffic is clear on Portland Avenue. ONLY cabs and limos that are contracted with the Legion to provide sober cab services will be allowed to access the site from Portland Avenue after 8:00 p.m. These vehicles will have placards provided to them by the American Legion to identify their right to enter. At 11:15 p.m. when patrons are allowed to exit the American Legion lot, they will be able to go either direction on Portland Avenue and 66<sup>th</sup> Street. Also, vehicles that are parked at the ice arena will be instructed they need to remain in place until 11:15 p.m. All residents living on 66<sup>th</sup> Street and Portland Avenue will be allowed entrance onto these streets.



**STAFF REPORT**  
**CITY COUNCIL MEETING**  
**JUNE 24, 2014**

REPORT PREPARED BY:

BETSY OSBORN, SUPPORT SERVICES  
MANAGER

DEPARTMENT DIRECTOR REVIEW:



*[Signature]*  
NAME, TITLE  
SIGNATURE

OTHER DEPARTMENT REVIEW:



N/A

SIGNATURE

REVIEWED BY CITY MANAGER:



*[Signature]*  
SIGNATURE

**ITEM FOR COUNCIL CONSIDERATION:**

Consideration of an annual request for a Community Celebration Event license and a temporary on-sale intoxicating liquor license, with a request of a fee waiver, for the Fourth of July Committee for events scheduled to take place at Veterans Memorial Park, July 1 - 5, 2014.

**I. RECOMMENDED ACTION:**

**By Motion: Approve a Community Celebration Event license and a temporary on-sale intoxicating liquor license, with a fee waiver, for the Fourth of July Committee for the annual events scheduled to take place at Veterans Memorial Park, July 1 - 5, 2014.**

**II. EXECUTIVE SUMMARY**

On May 30, 2014, the city received applications for the Community Celebration Event license, with a fee waiver, and a temporary on-sale intoxicating liquor license from the Fourth of July Committee, for events scheduled to take place at Veterans Memorial Park, July 1 - 5, 2014. The fee for the temporary on-sale intoxicating liquor license has been received, along with all required documentation, including liquor liability insurance.

This year the Street Dance begins at 6:00 p.m., and ends at 12:00 a.m. The Committee is requesting to extend alcohol service to 11:30 p.m.

### III. BASIS OF RECOMMENDATION

#### A. BACKGROUND

- Each year the Fourth of July Committee completes an application for a community celebration event license and requests the licensing fee of \$5,000 be waived for the activities taking place throughout the City for this celebration.

The Committee is again requesting a temporary on-sale intoxicating liquor license which will allow them to sell strong beer and wine coolers only. They plan to sell strong beer and wine coolers during the Street Dance on July 3, 2014 only.

This year the Street Dance begins at 6:00 p.m., and ends at 12:00 a.m. The Committee is requesting to extend alcohol service to 11:30 p.m.

The applicant has satisfied the following requirements for issuance of these licenses:

- The required licensing fee has been paid for the temporary on-sale intoxicating liquor license.
- All fees for each professional concession have been received.
- Proof of liquor liability insurance has been submitted showing Founders Insurance Company affording the coverage.
- A detailed plan of the days' events is currently on file.
- The applicant, as well as each professional concession, has contacted food sanitarians from the City of Bloomington to ensure proper food handling practices are followed.
- Public Safety Police Officers have been hired by the Fourth of July Committee to patrol the area for this event.

#### B. POLICY

- Richfield City Code Section 1202.05 requires all applicants to comply with all of the provisions of this code, as well as the provisions of Minnesota Statute Chapter 340A.

#### C. CRITICAL TIMING ISSUES

- The temporary on-sale intoxicating liquor license, allowing for the sale of strong beer and wine coolers, is valid only for the street dance on July 3, 2014 from 6:00 p.m. to 11:30 p.m.

#### D. FINANCIAL

- The required licensing fees have been received.

#### E. LEGAL

- N/A

F. ENVIRONMENTAL CONSIDERATIONS

- N/A

IV. ALTERNATIVE RECOMMENDATION(S)

- The Council could decide to deny the approval of a community celebration event license and a temporary on-sale intoxicating liquor license. This would result in the applicant not being able to conduct activities, especially those concerning food preparation and temporary on-sale intoxicating liquor sales.

V. ATTACHMENTS

- None

VI. PRINCIPAL PARTIES EXPECTED AT MEETING

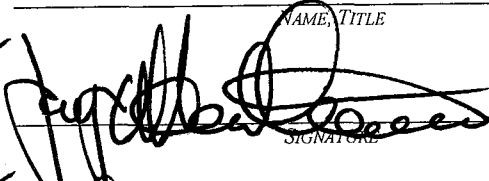
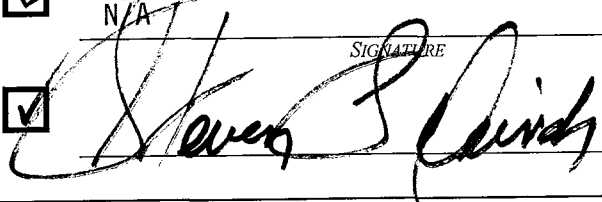
- Katherine Robison of the Fourth of July Committee has been notified of the date for Council consideration of this request.



# STAFF REPORT

## CITY COUNCIL MEETING

### JUNE 24, 2014

REPORT PREPARED BY:	BETSY OSBORN, SUPPORT SERVICES MANAGER
DEPARTMENT DIRECTOR REVIEW:	<input checked="" type="checkbox"/>  NAME, TITLE SIGNATURE
OTHER DEPARTMENT REVIEW:	<input checked="" type="checkbox"/> N/A SIGNATURE
REVIEWED BY CITY MANAGER:	<input checked="" type="checkbox"/>  SIGNATURE

#### ITEM FOR COUNCIL CONSIDERATION:

Consideration of the approval of the application for a premises permit by Fred Babcock VFW Post #5555 to conduct lawful gambling at the Minneapolis-Richfield American Legion Post #435, 6501 Portland Avenue South.

#### I. RECOMMENDED ACTION:

**By Motion: Adopt the resolution approving the lawful gambling premises permit application for Fred Babcock VFW Post #5555, to conduct lawful gambling at the Minneapolis-Richfield American Legion Post #435, 6501 Portland Avenue South.**

#### II. EXECUTIVE SUMMARY

On June 2, 2014, the City received a copy of an application for a premises permit submitted to the Minnesota State Gambling Control Board by Fred Babcock VFW Post #5555, to conduct lawful gambling at the Minneapolis-Richfield American Legion Post #435, 6501 Portland Avenue South. If approved, the application would allow lawful gambling to continue at the Minneapolis-Richfield American Legion Post #435, following a one year revocation of the Legion's gambling license due to gambling violations. The Fred Babcock VFW Post #5555 would be responsible for managing the conduct of lawful gambling on the American Legion's premises.

### III. BASIS OF RECOMMENDATION

#### A. BACKGROUND

- The Minnesota Gambling Control Board recently revoked the lawful gambling license of American Legion Post 435 for a period of one year due to gambling violations. The Legion wishes to continue to offer lawful gambling at its location during the period of revocation. The VFW, which is currently a licensed gambling organization and conducts gambling at its own location, is interested in operating and managing the gambling activity at the Legion site.

#### B. POLICY

- City Code, section 1100.13, subd. 7, allows a licensed gambling organization to lease or occupy an on-sale liquor establishment at a different location for the purpose of conducting gambling. The Legion is an on-sale liquor establishment.
- The Minnesota Gambling Control Board requires that a licensed gambling organization submit a premises permit application and lease form for lawful gambling activity at another site. The Board requires that the City Council approve the permit application by Resolution.
- Because the Fred Babcock VFW Post #5555 is already a licensed gambling organization, no investigation or fee is required.

#### C. CRITICAL TIMING ISSUES

- The Minnesota Gambling Control Board approves permit applicants at the beginning of each month. If the Council adopts the Resolution at the meeting on June 24, 2014, the VFW could begin operation and management of the gambling activity at the Legion after July 1, 2014. Otherwise, the applicant would be required to wait until August 1.

#### D. FINANCIAL

- N/A

#### E. LEGAL

- The City Attorney consulted with the Minnesota Gambling Control Board regarding the process.

#### F. ENVIRONMENTAL CONSIDERATIONS

- N/A

### IV. ALTERNATIVE RECOMMENDATION(S)

- Deny the request for the premises permit for Fred Babcock VFW Post #5555. This would mean the applicant would not be able to conduct gambling activities at the American Legion site.

### V. ATTACHMENTS

- Resolution.

### VI. PRINCIPAL PARTIES EXPECTED AT MEETING

- Representatives from the Fred Babcock VFW Post #5555 and Minneapolis-Richfield American Legion Post #435.

RESOLUTION NO. \_\_\_\_

**A RESOLUTION APPROVING THE LAWFUL GAMBLING PREMISES PERMIT  
APPLICATION FOR FRED BABCOCK VFW POST #5555 TO CONDUCT LAWFUL  
GAMBLING AT THE MINNEAPOLIS-RICHFIELD AMERICAN LEGION POST #435 AT  
6501 PORTLAND AVENUE SOUTH**

**WHEREAS**, Fred Babcock VFW Post #5555 is submitting an application to the Minnesota Gambling Control Board for approval of a Premises Permit application to conduct lawful charitable gambling at the American Legion Post #435 at 6501 Portland Avenue South, Richfield, MN; and

**WHEREAS**, the gambling premises is located within the City limits of Richfield, Minnesota; and

**WHEREAS**, the Fred Babcock VFW Post #5555 is a lawful gambling organization within the City; and

**WHEREAS**, the Fred Babcock VFW Post #5555 will be responsible for operating and managing the lawful gambling activity at the American Legion site and will comply with all applicable requirements of city code and state statutes.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Richfield, Minnesota that the City Council does hereby approve the issuance of a Premises Permit to the Fred Babcock VFW Post #5555 to conduct lawful charitable gambling activities at the American Legion Post #435, 6501 Portland Avenue South, Richfield, Minnesota.

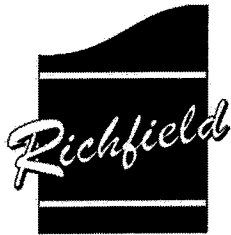
Adopted by the City Council of the City of Richfield, Minnesota this 24th day of June, 2014.

\_\_\_\_\_  
Debbie Goettel, Mayor

ATTEST:

\_\_\_\_\_  
Nancy Gibbs, City Clerk



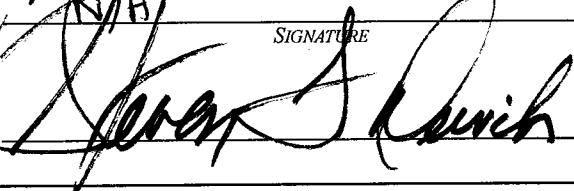




# STAFF REPORT

## CITY COUNCIL MEETING

### JUNE 24, 2014

REPORT PREPARED BY:	JULIE URBAN/KATE AITCHISON, HOUSING SPECIALISTS <small>NAME, TITLE</small>
DEPARTMENT DIRECTOR REVIEW:	<input checked="" type="checkbox"/>  <small>SIGNATURE</small>
OTHER DEPARTMENT REVIEW:	<input checked="" type="checkbox"/>  <small>SIGNATURE</small>
REVIEWED BY CITY MANAGER:	<input checked="" type="checkbox"/>  <small>SIGNATURE</small>

#### ITEM FOR COUNCIL CONSIDERATION:

Consideration of a resolution authorizing the execution of an amended Joint Cooperation Agreement between the City of Richfield and Hennepin County for participation in the Urban Hennepin County Community Development Block Grant program in Fiscal Years 2015 – 2017.

#### I. RECOMMENDED ACTION:

**By motion: Approve a resolution authorizing the execution of an amended Joint Cooperation Agreement between the City of Richfield and Hennepin County for participation in the Urban Hennepin County Community Development Block Grant program in Fiscal Years 2015 – 2017.**

#### II. EXECUTIVE SUMMARY

In 2008, the City of Richfield executed a Joint Cooperation Agreement (JCA) with Hennepin County that allows it to receive federal Community Development Block Grant (CDBG) entitlement funding. The U.S. Department of Housing and Urban Development (HUD) has made several administrative changes to the JCA and is requiring participating communities to approve an amended JCA. A new Joint Cooperation Agreement between the City and Hennepin County is needed in order for the City to participate in the CDBG program for Fiscal Years 2015-2017.

In the past, Richfield has used CDBG funds to fund the Housing and Redevelopment Authority's Deferred Loan Rehabilitation Program, New Home Construction Program, and public service agencies providing assistance to low-income homeowners and renters. Funding a new Penn Avenue Façade Improvement Program is also proposed in 2014.

### III. BASIS OF RECOMMENDATION

#### A. BACKGROUND

- On June 10, 2008 the City authorized the execution of a Joint Cooperation Agreement between the City and Hennepin County for participation in the Urban Hennepin County CDBG Program. That agreement is on-going unless the City notifies the County that it no longer wishes to participate in the CDBG Program.
- On April 25, 2014, HUD released Notice CPD-13-04 which required changes to the JCA for 2015-2017. The following changes have been made:
  - 1) The addition of language stating that the agreement covers not only the CDBG Entitlement Program and the HOME Investment Partnership (HOME), but also the Emergency Solutions Grants (ESG) Programs.
  - 2) The addition of a provision that a unit of general local government may not sell, trade, or otherwise transfer all or any portion of such funds to another such metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under Title I of the Act. This new requirement is contained in the FY2014 HUD appropriation bill.
  - 3) Clarification of Fair Housing language.
  - 4) Moving contract term language specific to the CDBG contract year from the JCA Section D to the annual CDBG subrecipient contracts for awards (beginning in FY 2015)
  - 5) Expanding Planning and Administrative cost language to reflect the County's growing costs associated with compliance and timeliness monitoring and the potential need for future increases within the term of the JCA (the County has retained 13 percent since 2002; the maximum allowed by HUD is 20 percent).

#### B. POLICY

- The JCA ensures the ongoing opportunity to fund CDBG programs and projects.
- All CDBG-funded activities must meet one of three national objectives: benefitting low and moderate-income persons, preventing or eliminating slums and/or blight, or meet an urgent need. In addition, activities must be consistent with priorities identified in the County's Consolidated Plan. Those priorities include a variety of housing

activities such as housing rehabilitation, public services to maintain or increase self-sufficiency, and neighborhood revitalization activities.

C. CRITICAL TIMING ISSUES

- The resolution approving the amended JCA must be returned to Hennepin County by July 18, 2014.

D. FINANCIAL

- These are Federal funds awarded to the City of Richfield through Hennepin County. Failure to approve the amended JCA will result in the City losing its federal CDBG funding.
- The City was most recently awarded \$205,188 in CDBG funds.

E. LEGAL

- The changes to the JCA require a certified City Resolution approving the amended JCA.

F. ENVIRONMENTAL CONSIDERATIONS

- N/A

IV. ALTERNATIVE RECOMMENDATION(S)

- Do not adopt the Resolution.

V. ATTACHMENTS

- Resolution authorizing the execution of the CDBG Joint Cooperation Agreement for FY 2015-2017
- Amended Joint Cooperation Agreement

VI. PRINCIPAL PARTIES EXPECTED AT MEETING

- N/A

**RESOLUTION NO. \_\_\_\_**

**RESOLUTION AUTHORIZING THE EXECUTION OF A JOINT COOPERATION AGREEMENT BETWEEN THE CITY OF RICHFIELD AND HENNEPIN COUNTY FOR PARTICIPATION IN THE URBAN HENNEPIN COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM IN FY 2015 – 2017**

**WHEREAS**, the City of Richfield, Minnesota and the County of Hennepin have in effect a Joint Cooperation Agreement for purposes of qualifying as an Urban County under the United States Department of Housing and Urban Development Community Development Block Grant (CDBG), Emergency Solutions Grants (ESG) Program, and HOME Investment Partnerships (HOME) Programs; and

**WHEREAS**, the City and County wish to execute a new Joint Cooperation Agreement in order to continue to qualify as an Urban County for purposes of the Community Development Block Grant, ESG and HOME Programs.

**BE IT THEREFORE RESOLVED** that a new Joint Cooperation Agreement between the City and County be executed effective October 1, 2014 and that the Mayor and the City Council be authorized and directed to sign the Agreement on behalf of the City.

Adopted by the City Council of the City of Richfield, Minnesota this 24th day of June, 2014.

\_\_\_\_\_  
Debbie Goettel, Mayor

**ATTEST:**

\_\_\_\_\_  
Nancy Gibbs, City Clerk

**JOINT COOPERATION AGREEMENT  
URBAN HENNEPIN COUNTY  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT made and entered into by and between the COUNTY OF HENNEPIN, State of Minnesota, hereinafter referred to as "COUNTY," A-2400 Government Center, Minneapolis, Minnesota, 55487, and the cities executing this Master Agreement, each hereinafter respectively referred to as "COOPERATING UNIT," said parties to this Agreement each being governmental units of the State of Minnesota, and made pursuant to Minnesota Statutes, Section 471.59.

**WITNESSETH:**

COOPERATING UNIT and COUNTY agree that it is desirable and in the interests of their citizens that COOPERATING UNIT shares its authority to carry out essential community development and housing activities with COUNTY in order to permit COUNTY to secure and administer Community Development Block Grant and HOME Investment Partnership funds as an Urban County within the provisions of the Act as herein defined and, therefore, in consideration of the mutual covenants and promises contained in this Agreement, the parties mutually agree to the following terms and conditions.

COOPERATING UNIT acknowledges that by the execution of this Agreement that it understands that it:

1. May not also apply for grants under the State CDBG Program from appropriations for fiscal years during which it is participating in the Urban County Program; and
2. May not participate in a HOME Consortium except through the Urban County.
3. May not receive a formula allocation under the Emergency Solutions Grants (ESG) Program except through the Urban County.

**I. DEFINITIONS**

The definitions contained in 42 U.S.C. 5302 of the Act and 24 CFR §570.3 of the Regulations are incorporated herein by reference and made a part hereof, and the terms defined in this section have the meanings given them:

- A. "Act" means Title I of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301 et seq.).
- B. "Activity" means a CDBG-funded activity eligible under Title I of the Housing and Community Development Act of 1974, as amended. Example: single family rehab activity.
- C. "Annual Program" means those combined activities submitted by cooperating units to COUNTY for CDBG funding as part of the Consolidated Plan.
- D. "Consolidated Plan" means the document bearing that title or similarly required statements or documents submitted to HUD for authorization to expend the annual grant amount and which is

developed by the COUNTY in conjunction with COOPERATING UNITS as part of the Community Development Block Grant Program.

- E. "Cooperating Unit(s)" means any city or town in Hennepin County that has entered into a cooperation agreement that is identical to this Agreement, as well as Hennepin County, which is a party to each Agreement.
- F. "HUD" means the United States Department of Housing and Urban Development.
- G. "Metropolitan City" means any city located in whole or in part in Hennepin County which is certified by HUD to have a population of 50,000 or more people.
- H. "Program" means the HUD Community Development Block Grant Program as defined under Title I of the Housing and Community Development Act of 1974, as amended.
- I. "Program Income" means gross income received by the recipient or a subrecipient directly generated from the use of CDBG.
- J. "Regulations" means the rules and regulations promulgated pursuant to the Act, including but not limited to 24 CFR Part 570.
- K. "Urban County" means the entitlement jurisdiction within the provisions of the Act and includes the suburban Hennepin County municipalities which are signatories to this Agreement.

## **II. PURPOSE**

The purpose of this Agreement is to authorize COUNTY and COOPERATING UNIT to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities and authorizes COUNTY to carry out these and other eligible activities for the benefit of eligible recipients who reside within the corporate limits of the COOPERATING UNIT which will be funded from annual Community Development Block Grant, Emergency Solutions Grants (ESG) Programs and HOME appropriations for the Federal Fiscal Years 2015, 2016 and 2017 and from any program income generated from the expenditure of such funds.

## **III. AGREEMENT**

The initial term of this Agreement is for a period commencing on October 1, 2014 and terminating no sooner than the end of the program year covered by the Consolidated Plan for the basic grant amount for the Fiscal Year 2017, as authorized by HUD, and for such additional time as may be required for the expenditure of funds granted to the County for such period. Prior to the end of the initial term and the end of each subsequent qualification period, the COUNTY, as the lead agency of the URBAN HENNEPIN COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM, shall provide a written notice to the COOPERATING UNIT of their right not to participate in a subsequent qualification period. The written notice will provide the COOPERATING UNIT a minimum thirty (30) day period to submit a written withdrawal. If the COOPERATING UNIT does not submit to the COUNTY a written withdrawal during the notice period, this Agreement shall be automatically extended for a subsequent three-year qualifying period.

This Agreement must be amended by written agreement of all parties to incorporate any future changes necessary to meet the requirements for cooperation agreements set forth in the Urban County Qualification Notice applicable for the year in which the next qualification of the County is scheduled. Failure by either party to adopt

such an amendment to the Agreement shall automatically terminate the Agreement following the expenditure of all CDBG and HOME funds allocated for use in the COOPERATING UNIT's jurisdiction.

This Agreement shall remain in effect until the CDBG, HOME and ESG funds and program income received (with respect to activities carried out during the three-year qualification period, and any successive qualification periods under agreements that provide for automatic renewals) are expended and the funded activities completed. COUNTY and COOPERATING UNIT cannot terminate or withdraw from this Agreement while it remains in effect.

Notwithstanding any other provision of this Agreement, this Agreement may be terminated at the end of the program period during which HUD withdraws its designation of the COUNTY as an Urban County under the Act.

This Agreement shall be executed by the appropriate officers of COOPERATING UNIT and COUNTY pursuant to authority granted them by their respective governing bodies, and a copy of the authorizing resolution and executed Agreement shall be filed promptly by the COOPERATING UNIT in the Hennepin County Department of Housing, Community Works and Transit so that the Agreement can be submitted to HUD by July 25, 2014.

COOPERATING UNIT and COUNTY shall take all actions necessary to assure compliance with the urban county's certifications required by Section 104(b) of the Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964; the Fair Housing Act, and affirmatively furthering fair housing. COOPERATING UNIT and COUNTY shall also take all actions necessary to assure compliance with Section 109 of Title I of the Housing and Community Development Act of 1974 (which incorporates Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975), and other applicable laws.

#### **IV. ACTIVITIES**

COOPERATING UNIT agrees that awarded grant funds will be used to undertake and carry out, within the terms of this Agreement, certain activities eligible for funding under the Act. The COUNTY agrees and will assist COOPERATING UNIT in the undertaking of such essential activities by providing the services specified in this Agreement. The parties mutually agree to comply with all applicable requirements of the Act and the Regulations and other relevant Federal and/or Minnesota statutes or regulations in the use of basic grant amounts. Nothing in this Article shall be construed to lessen or abrogate the COUNTY's responsibility to assume all obligations of an applicant under the Act, including the development of the Consolidated Plan, pursuant to 24 CFR Part 91.

COOPERATING UNIT further specifically agrees as follows:

- A. COOPERATING UNIT will, in accord with a COUNTY-established schedule, prepare and provide to the COUNTY, in a prescribed form, requests for the use of Community Development Block Grant Funds consistent with this Agreement, program regulations and the Urban Hennepin County Consolidated Plan.
- B. COOPERATING UNIT acknowledges that, pursuant to 24 CFR §570.501 (b), it is subject to the same requirements applicable to subrecipients, including the requirement for a written Subrecipient Agreement set forth in 24 CFR §570.503. The Subrecipient Agreement will cover the implementation requirements for each activity funded pursuant to this Agreement and shall be duly executed with and in a form prescribed by the COUNTY.
- C. COOPERATING UNIT acknowledges that it is subject to the same subrecipient requirements stated in paragraph B above in instances where an agency other than itself is undertaking an activity pursuant to

this Agreement on behalf of COOPERATING UNIT. In such instances, a written Third Party Agreement shall be duly executed between the agency and COOPERATING UNIT in a form prescribed by COUNTY.

- D. COOPERATING UNITS shall expend all funds annually allocated to activities pursuant to the Subrecipient Agreement.
  - 1. All funds not expended pursuant to the terms of the Subrecipient Agreement will be relinquished to the COUNTY and will be transferred to a separate account for reallocation on a competitive request for proposal basis at the discretion of the COUNTY where total of such funds is \$100,000 or greater. Amounts less than \$100,000 shall be allocated by COUNTY to other existing activities consistent with timeliness requirements and Consolidated Plan goals.
- E. COUNTY and COOPERATING UNITS shall expend all program income pursuant to this Agreement as provided below:
  - 1. Program income from housing rehabilitation activities administered by the COUNTY will be incorporated into a pool at the discretion of the COUNTY. The pool will be administered by COUNTY and will be used for housing rehabilitation projects located throughout the entire Urban County. When possible, COUNTY will give priority to funding housing rehabilitation projects within the COOPERATING UNIT where the program income was generated. Funds expended in this manner would be secured by a Repayment Agreement/Mortgage running in favor of the COUNTY. Program income generated by certain COOPERATING UNITS that administer their own housing rehabilitation activities may be retained by the COOPERATING UNIT at its discretion; however, such COOPERATING UNITS will be bound by the conditions of D.2., above. Only COOPERATING UNITS that were administering their own activities pursuant to the Joint Cooperation Agreement pertaining to the HUD fiscal years 2012-2014 will be eligible to retain their program income.
  - 2. COUNTY reserves the option to recapture program income generated by non-housing rehabilitation activities if said funds have not been expended within twelve (12) months of being generated. These funds shall be transferred to a separate account for reallocation on a competitive request for proposal basis administered by COUNTY or, where the total of such funds does not exceed \$100,000, shall be reallocated by COUNTY to other existing activities consistent with timeliness requirements and Consolidated Plan goals.
- F. COOPERATING UNITS are encouraged to undertake joint activities involving the sharing of funding when such action furthers the goals of the Consolidated Plan and meets the expenditure goals.
- G. If COUNTY is notified by HUD that it has not met the performance standard for the timely expenditure of funds at 24 CFR 570.902(a) and the COUNTY entitlement grant is reduced by HUD according to its policy on corrective actions, then the basic grant amount to any COOPERATING UNIT that has not met its expenditure goal shall be reduced accordingly.
- H. COOPERATING UNIT will take actions necessary to assist in accomplishing the community development program and housing goals, as contained in the Urban Hennepin County Consolidated Plan.
- I. COOPERATING UNIT shall ensure that all activities funded, in part or in full by grant funds received pursuant to this Agreement, shall be undertaken affirmatively with regard to fair housing, employment and business opportunities for minorities and women. It shall, in implementing all programs and/or



activities funded by the basic grant amount, comply with all applicable Federal and Minnesota Laws, statutes, rules and regulations with regard to civil rights, affirmative action and equal employment opportunities and Administrative Rule issued by the COUNTY.

- J. COOPERATING UNIT that does not affirmatively further fair housing within its own jurisdiction or that impedes action by COUNTY to comply with its fair housing certification shall be prohibited from receiving CDBG funding for any activities.
- K. COOPERATING UNIT shall participate in the citizen participation process, as established by COUNTY, in compliance with the requirements of the Housing and Community Development Act of 1974, as amended.
- L. COOPERATING UNIT shall reimburse COUNTY for any expenditure determined by HUD or COUNTY to be ineligible.
- M. COOPERATING UNIT shall prepare, execute, and cause to be filed all documents protecting the interests of the parties hereto or any other party of interest as may be designated by the COUNTY.
- N. COOPERATING UNIT has adopted and is enforcing:
  - 1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and
  - 2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within its jurisdiction.
- O. COOPERATING UNIT shall not sell, trade, or otherwise transfer all or any portion of grant funds to another metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under Title I of the Act.

COUNTY further specifically agrees as follows:

- A. COUNTY shall prepare and submit to HUD and appropriate reviewing agencies, on an annual basis, all plans, statements and program documents necessary for receipt of a basic grant amount under the Act.
- B. COUNTY shall provide, to the maximum extent feasible, technical assistance and coordinating services to COOPERATING UNIT in the preparation and submission of a request for funding.
- C. COUNTY shall provide ongoing technical assistance to COOPERATING UNIT to aid COUNTY in fulfilling its responsibility to HUD for accomplishment of the community development program and housing goals.
- D. COUNTY shall, upon official request by COOPERATING UNIT, agree to administer local housing rehabilitation activities funded pursuant to the Agreement, provided that COUNTY shall receive Twelve percent (12%) of the allocation by COOPERATING UNIT to the activity as reimbursement for costs associated with the administration of COOPERATING UNIT activity.

- E. COUNTY may, at its discretion and upon official request by COOPERATING UNIT, agree to administer, for a possible fee, other activities funded pursuant to this Agreement on behalf of COOPERATING UNIT.
- F. COUNTY may, as necessary for clarification and coordination of program administration, develop and implement Administrative Rules consistent with the Act, Regulations, HUD administrative directives, and administrative requirements of COUNTY.

## **V. ALLOCATION OF BASIC GRANT AMOUNTS**

Basic grant amounts received by the COUNTY under Section 106 of the Act shall be allocated as follows:

- A. Planning and administration costs are capped to 20 percent of the sum of grant plus program income that is received during the program year. During the term of this Agreement the COUNTY anticipates planning and administrative retainage of thirteen to fifteen percent (13-15%); included in this administrative amount is funding for annual county-wide Fair Housing activities.
- B. The balance of the basic grant amount shall be made available by COUNTY to COOPERATING UNITS in accordance with the formula stated in part C and the procedure stated in part D of this section utilizing U.S. Census Bureau data. The allocation is for planning purposes only and is not a guarantee of funding.
- C. Allocation of funding will be based upon a formula using U.S. Census Bureau data that bears the same ratio to the balance of the basic grant amount as the average of the ratios between:
  - 1. The population of COOPERATING UNIT and the population of all COOPERATING UNITS.
  - 2. The extent of poverty in COOPERATING UNIT and the extent of poverty in all COOPERATING UNITS.
  - 3. The extent of overcrowded housing by units in COOPERATING UNIT and the extent of overcrowded housing by units in all COOPERATING UNITS.
  - 4. In determining the average of the above ratios, the ratio involving the extent of poverty shall be counted twice.
- D. Funds will be made available to communities utilizing the formula specified in C of this Section in the following manner:
  - 1. All COOPERATING UNITS with aggregate formula percentages of greater than three and one half percent (3.5%) of the total using the procedure in part C. of this section will receive funding allocations in accordance with the COUNTY formula allocations.
  - 2. COOPERATING UNITS with aggregate formula percentages of three and one half percent (3.5%) or less of the total using the procedure in part C. of this section will have their funds consolidated into a pool for award in a manner determined by COUNTY on a competitive request for proposal basis. Only the COUNTY and COOPERATING UNITS whose funding has been pooled will be eligible to compete for these funds.

- E. The COUNTY shall develop these ratios based upon data to be furnished by HUD. The COUNTY assumes no duty to gather such data independently and assumes no liability for any errors in the data furnished by HUD.
- F. In the event COOPERATING UNIT does not request a funding allocation, or a portion thereof, the amount not requested shall be made available to other participating communities, in a manner determined by COUNTY.

## **VI. METROPOLITAN CITIES**

Any metropolitan city executing this Agreement shall defer their entitlement status and become part of Urban Hennepin County.

This agreement can be voided if the COOPERATING UNIT is advised by HUD, prior to the completion of the re-qualification process for fiscal years 2015-2017, that it is eligible to become a metropolitan city and the COOPERATING UNIT elects to take its entitlement status. If the agreement is not voided on the basis of the COOPERATING UNIT's eligibility as a metropolitan city prior to June 20, 2014, the COOPERATING UNIT must remain a part of the COUNTY program for the entire three-year period of the COUNTY qualification.

## **VII. OPINION OF COUNSEL**

The undersigned, on behalf of the Hennepin County Attorney, having reviewed this Agreement, hereby opines that the terms and provisions of the Agreement are fully authorized under State and local law and that the COOPERATING UNIT has full legal authority to undertake or assist in undertaking essential community development and housing assistance activities, specifically urban renewal and publicly-assisted housing.

---

Assistant County Attorney

### VIII. HENNEPIN COUNTY EXECUTION

The Hennepin County Board of Commissioners having duly approved this Agreement on \_\_\_\_\_, 2014, and pursuant to such approval and the proper County official having signed this Agreement, the COUNTY agrees to be bound by the provisions herein set forth.

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant County Attorney

Date: \_\_\_\_\_

COUNTY OF HENNEPIN, STATE OF MINNESOTA

By: \_\_\_\_\_  
Chair of its County Board

And: \_\_\_\_\_  
Assistant/Deputy/County Administrator

Attest: \_\_\_\_\_  
Deputy/Clerk of the County Board

RECOMMENDED FOR APPROVAL

\_\_\_\_\_  
Assistant County Administrator - Public Works

Date: \_\_\_\_\_

\_\_\_\_\_  
Department, Housing, Community Works and Transit

Date: \_\_\_\_\_

## IX. COOPERATING UNIT EXECUTION

COOPERATING UNIT, having signed this Agreement, and the COOPERATING UNIT'S governing body having duly approved this Agreement on \_\_\_\_\_, 2014, and pursuant to such approval and the proper city official having signed this Agreement, COOPERATING UNIT agrees to be bound by the provisions of this Joint Cooperation Agreement.

CITY OF

By: \_\_\_\_\_  
Its Mayor

And: \_\_\_\_\_  
Its City Manager

ATTEST: \_\_\_\_\_

CITY MUST CHECK ONE:

The City is organized pursuant to:

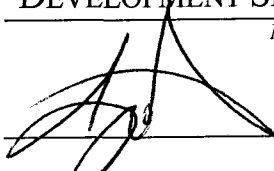


\_\_\_\_ Plan A    \_\_\_\_ Plan B    \_\_\_\_ Charter



# STAFF REPORT

## CITY COUNCIL MEETING

### JUNE 24, 2014

REPORT PREPARED BY:	CHRISTINE COSTELLO, ECONOMIC DEVELOPMENT SPECIALIST <small>NAME, TITLE</small>
DEPARTMENT DIRECTOR REVIEW:	<input checked="" type="checkbox"/>  <small>SIGNATURE</small>
OTHER DEPARTMENT REVIEW:	<input checked="" type="checkbox"/>  <small>SIGNATURE</small>
REVIEWED BY CITY MANAGER:	<input checked="" type="checkbox"/>  <small>SIGNATURE</small>

#### ITEM FOR COUNCIL CONSIDERATION:

Consideration of an Amendment of Commercial Lease with the Minnesota Department of Transportation and Amendment of License Agreement with Transmission Shop, Inc. for the parking lot at Cedar Avenue and Diagonal Boulevard.

#### I. RECOMMENDED ACTION:

**By Motion: Approve attached Amendment of Commercial Lease with the Minnesota Department of Transportation and Amendment of License Agreement with Transmission Shop, Inc. for the parking lot at Cedar Avenue and Diagonal Boulevard.**

#### II. EXECUTIVE SUMMARY

In 2001 the City of Richfield (City) worked with the Minnesota Department of Transportation (MnDOT) to secure a commercial lease for the construction of a parking lot on excess MnDOT right-of-way. In return, the City leases the parking lot to the Transmission Shop, Inc. (Transmission Shop) located at 6958 Cedar Avenue to remedy a neighborhood parking problem that occurred from the relocation of the business. The Transmission Shop constructed the parking lot and has paid the taxes for the property since 2001. The parking lot has been successful in remedying any parking problems that had existed in the neighborhood. The agreement between all the parties has been successfully renewed every two-years per MnDOT's request since 2001.

### III. BASIS OF RECOMMENDATION

#### A. BACKGROUND

- In August 2001 the City approved a Commercial Lease between the City and MnDOT for the construction of a parking lot on excess right-of-way land (45,750 sq. ft.) at approximately Cedar Avenue and Diagonal Boulevard.
- At the same time, the City also approved a License Agreement between the City and the Transmission Shop for the use of the parking lot. The City pursued this arrangement with MnDOT as a way to remedy neighborhood parking problems resulting from the relocation of a transmission shop from 6409 Cedar Avenue to 6958 Cedar Avenue. The property located at 6409 Cedar Avenue was acquired for the 66th Street/TH 77 Interchange bridge and ramp project.
- The original Lease and License Agreements were set to expire on June 30, 2006. The Lease and License Agreements were continued via an amendment by the City Council in 2006, 2008, 2010 and 2012.
- The parking lot has been successful over the years, remedying any parking problems in the area and the Transmission Shop is interested in extending the License Agreement.
- MnDOT has provided an amendment to the Lease to extend it for another two years, after which time, additional extensions can be considered. The License Agreement is also being extended for the same term.
- Barring any redevelopment in the area or use of the excess land by MnDOT, it is understood by all parties to the Lease and License Agreements that the excess land can be used until at least 2016.

#### B. POLICY

- The original Commercial Lease and License Agreements allow for term extensions.
- Amendments to the Lease and License Agreements are set for another two years. Term extensions can be made once the proposed term expires.

#### C. CRITICAL TIMING ISSUES

- MnDOT could terminate the Lease if the subject land is needed for highway purposes. Currently it continues to be considered excess right-of-way.
- The City could terminate the Lease with MnDOT. However, the Lease is tied to the License Agreement, which calls for use of the premises until at least 2016. This date was set to protect the Transmission Shop's business interests and to amortize the cost of construction of the parking lot, which was borne by the business owner. The cost of construction of the parking lot was \$91,000.

#### D. FINANCIAL

- Neither Agreement calls for rent to be paid. The Transmission Shop's construction of the improvements on the excess land was the consideration for this transaction.
- Taxes are current and being paid by the business owner through a personal property tax account. Taxes for 2014 are \$14,645.73 and disbursed by Hennepin County to the appropriate taxing jurisdictions.
- Maintenance and repair of the licensed premises are the responsibilities of the Transmission Shop.

#### E. LEGAL

- Kennedy and Graven prepared the original License and the Amendment to the License Agreement for the City.

#### F. ENVIRONMENTAL CONSIDERATIONS

- N/A

#### IV. ALTERNATIVE RECOMMENDATION(S)

- Do not extend the lease with MnDOT or License Agreement with the Transmission Shop, Inc. However, parking could again become an issue for the neighborhood.

#### V. ATTACHMENTS

- Amendment of Commercial Lease No. 5
- Amendment of License Agreement No. 5
- Original Commercial Lease
- Original License Agreement
- Map of the general area surrounding the leased property

#### VI. PRINCIPAL PARTIES EXPECTED AT MEETING

- N/A



Minnesota Department of Transportation  
Metro District  
1500 W. County Road B2  
Roseville, MN 55113  
651-234-7598

C.S. 2758 (77=279) 901  
PARCEL: 0009

LEASE NO. 27692

AMENDMENT OF COMMERCIAL LEASE  
No. 5

THIS AGREEMENT, is made by and between the State of Minnesota, Department of Transportation ("Landlord") and City of Richfield ("Tenant"), and shall be an amendment and addition to Lease No. 27692.

WITNESSETH:

WHEREAS, Landlord and Tenant entered into Lease No. 27692 ("Lease") involving the rental of a commercial property;

WHEREAS, the parties deem certain amendments and additional terms and conditions mutually beneficial for the effective continuation of said Lease; and

NOW THEREFOR, Landlord and Tenant agree to substitution and/or addition of the following terms and conditions which shall become a part of the Lease No. 27692, effective as of the date set forth hereinafter.

1. Effective on June 30, 2014, this Lease No. 27692 shall be renewed for a period of two (2) year(s) commencing on July 1, 2014 and continuing through June 30, 2016, with the right of termination in both Landlord and Tenant as set forth in the Lease.
2. Effective June 30, 2014, Sections 9 of the Lease are deleted in their entirety and the following Sections of the Lease is substituted thereof:

9. INSURANCE. Prior to execution of this Lease by Landlord, the Tenant shall provide Landlord with a properly executed certificate(s) of insurance which shall clearly evidence the insurance required below, and provide that such insurance will not be canceled, except on 30 days' prior written notice to Landlord.

9.1 Tenant shall maintain during the full term of this Lease commercial general liability insurance or equivalent form including Premises-Operations Liability, Products/Completed Operations Liability (if applicable), Contractual Liability, and Fire Legal Liability with a limit of not less than \$2,000,000 each occurrence. If such insurance contains a general aggregate limit, it will be equal to or greater than \$2,000,000 and apply separately to this Lease.

The insurance shall name the State of Minnesota as an Additional Insured with respect to performance of the Lease.

9.1.2 This insurance shall be primary with respect to any insurance or self-insurance programs covering Landlord, its officers and employees.

9.2 Tenant shall maintain during the full term of this Lease workers' compensation insurance with statutory limits and employers' liability insurance with limits not less than \$100,000 bodily injury by disease per employee, \$500,000 bodily injury by disease aggregate and \$100,000 bodily injury by accident.

If Minnesota Statute 176.041 exempts Tenant from Workers' compensation insurance or if the Tenant has no employees in the State of Minnesota, Tenant must provide a written statement, signed by the authorized signer of the contract, stating the qualifying exemption that excludes Tenant from MN Workers' Compensation requirements.

If during the course of the contract the Tenant becomes eligible for Workers' Compensation, the Tenant must comply with the Worker's Compensation Insurance requirements included herein and provide the State of Minnesota with a certificate of insurance.

An Umbrella or Excess Liability insurance policy may be used to supplement the policy limit to satisfy the full policy limits required by the Lease.

3. Effective June 30, 2014, Section 20 of the Lease is hereby deleted and the following Section 20 is substituted therefore:

**Section 20 HAZARDOUS SUBSTANCES OR POLLUTANTS OR CONTAMINANTS.**

Tenant shall not cause or permit any hazardous substance or pollutant or contaminant to be used, generated, stored or disposed of on or in the Premises by Tenant, Tenant's agents, employees, contractors or invitees. If the Tenant causes or allows the Premises to become contaminated in any manner by hazardous substances or pollutants or contaminants, during the term of this Lease, Tenant shall indemnify and hold harmless the Landlord in accordance with Section 8 of this Lease. This indemnification is intended to, and shall, survive the termination of this Lease. Without limitation of the foregoing, if Tenant causes or permits the presence of any hazardous substance or pollutant or contaminant on the Premises, and that presence results in contamination, Tenant shall promptly, at its sole expense, take any and all necessary actions approved by the Landlord to return the Premises to a condition that is in accordance with all applicable Federal, State and Local regulations.

4. The terms of the original Lease and its amendment(s) are expressly reaffirmed and remain in full force and effect. By this reference the original Lease and its amendment(s) are attached and incorporated into this agreement.

**TENANT**  
**City of Richfield**

Signature\_\_\_\_\_

Print Name\_\_\_\_\_

Title\_\_\_\_\_ Date\_\_\_\_\_

Signature\_\_\_\_\_

Print Name\_\_\_\_\_

Title\_\_\_\_\_ Date\_\_\_\_\_

**LANDLORD, STATE OF MINNESOTA**  
**DEPARTMENT OF TRANSPORTATION**  
**COMMISSIONER OF TRANSPORTATION**

By \_\_\_\_\_  
Tom O'Keefe, P.E.  
Metro Program Delivery Engineer

Date \_\_\_\_\_

Approved as to form and execution

**OFFICE OF CONTRACT MANAGEMENT**

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**AMENDMENT 5**

**June 24, 2014**

**AMENDMENT TO LICENSE AGREEMENT**

THIS AMENDMENT is made and entered into as of June 24, 2014, by and between THE CITY OF RICHFIELD, MINNESOTA, a Minnesota municipal corporation ("Grantor") and the TRANSMISSION SHOP, INC., a Minnesota corporation ("Grantee"), and amends that certain License Agreement between Grantor and Grantee dated August 16, 2001.

Recitals

- A. Grantor and Grantee entered into a License Agreement involving the use of certain land at 6945 Cedar Avenue, Richfield, Minnesota, depicted on the attached Exhibit A.
- B. The parties desire to extend the term of the License Agreement by this Amendment.

Terms

- 1. Effective on June 30, 2014, the License Agreement shall be renewed for a period of two years, commencing on July 1, 2014 and continuing through June 30, 2016, with the right of termination as set forth in the License Agreement.
- 2. The terms of the original License Agreement are expressly reaffirmed and remain in full force and effect, except as modified by this Amendment.

**GRANTOR**  
**THE CITY OF RICHFIELD**

By \_\_\_\_\_  
Debbie Goettel, Mayor

By \_\_\_\_\_  
Steven L. Devich, City Manager

GRANTEE:  
TRANSMISSION SHOP, INC.

By *Russell Blair*  
Its President

STATE OF MINNESOTA }  
COUNTY OF HENNEPIN } ss.:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012 by Debbie Goettel and Steven L. Devich, the mayor and city manager, respectively, of the City of Richfield, a municipal corporation under the laws of Minnesota, by and on behalf of said corporation.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA }  
COUNTY OF HENNEPIN } ss.:

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of June, 2014, by Russell Blair the president of Transmission Shop, Inc., a corporation under the laws of Minnesota, by and on behalf of said corporation.



*Christine R. Costello*  
Notary Public

**EXHIBIT A**

**(Sketch Depicting Location of Licensed Premises)**

Minnesota Department of Transportation  
Office of Land Management  
Transportation Building Mailstop 631  
395 John Ireland Boulevard  
St. Paul, Minnesota 55155-1899  
651.296.9744

S.P.: 2758 (36=279)  
PARCEL: 9

LEASE NO.: H-06047  
ACCOUNT NO.: 27D078

COMMERCIAL LEASE

THIS LEASE is made between the State of Minnesota, Department of Transportation ("Landlord"), City of Richfield, a political subdivision of the State ("Tenant").

Mail Lease to: Mr. Perry J. Thorvig  
Community Development Specialist  
6700 Portland Avenue  
Richfield, Minnesota 55423

IT IS AGREED:

1. In consideration of payment of the rent hereinafter specified to be paid by Tenant, and the covenants and agreements herein contained, Landlord hereby leases to Tenant that certain property ("Premises") in the County of Hennepin, State of Minnesota, described as follows:

Address of Premises: adjacent to the intersection of Cedar Avenue and Diagonal Boulevard, in the City of Richfield as shown on Exhibit A attached hereto and by this reference incorporated herein.

Type of Property: approximately 45,750 usable square feet of commercial vacant land

This Lease includes improvements, if any, and is in effect for the term of five (5) years commencing on July 1, 2001 and continuing through June 30, 2006, with the right of termination in both Landlord and Tenant as hereinafter set forth.

2. RENT. The consideration for this Lease shall be the mutual benefits to both parties of this Lease.

3. USE OF PREMISES. Tenant shall use the Premises for the following purpose only: public parking and no other use whatsoever.

It shall be the sole responsibility of Tenant to comply with all laws, regulations, or ordinances imposed by any jurisdiction governing the use of the Premises. Failure to comply will not relieve Tenant of the obligation to pay rent. Tenant's use of the Premises must not interfere with the public's use of any adjacent highway.

Signs or displays will be restricted to those indicating proprietorship and type of activities conducted on the Premises, and will be subject to regulation by Landlord as to number, size, location, and design.

4. MAINTENANCE AND REPAIRS. Tenant shall keep the Premises in good condition at Tenant's own expense, and shall not call on Landlord to make any improvements or repairs.

5. CHARGES AND EXPENSES. Tenant shall pay when due all utility charges and any other charges or expenses connected with Tenant's use of the Premises.

6. NOTICES. All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when served personally on Landlord or Tenant, or when made in writing and deposited in the United States Mail and addressed as follows: To Tenant at the mailing address above stated and to Landlord, Department of Transportation, Office of Land Management, Transportation Building Mailstop 631, 395 John Ireland Boulevard, St. Paul, Minnesota, 55155-1899. The address to which notices are mailed may be changed by written notice given by either party to the other.

7. CANCELLATION. This Lease shall be subject to cancellation by either party at any time during the term hereof by giving the other party notice in writing at least sixty (60) days prior to the date when the cancellation will become effective. Furthermore, this Lease shall be subject to cancellation by Landlord if the Premises become needed for highway purposes (as determined solely by Landlord) by giving Tenant notice in writing at least thirty (30) days prior to the date when the cancellation will become effective. In the event of cancellation any unearned rent paid by Tenant will be returned.

8. INDEMNIFICATION AND RELEASE. Tenant shall defend, indemnify, save harmless, and release Landlord and Landlord's employees from and against all claims, demands, and causes of action for injury to or death of persons or loss of or damage to property (including Tenant and Tenant's property) occurring on the Premises and connected with Tenant's use and occupancy of the Premises, regardless of whether such injury, death, loss, or damage is caused in part by:

- (i) the negligence of Landlord or
- (ii) is deemed to be the responsibility of Landlord,

because of its failure to supervise, inspect, or control the operations of Tenant or otherwise discover or prevent actions or operations of Tenant giving rise to liability to any person.

If any negligence or responsibility of Landlord is unrelated to Tenant's occupancy or use of the Premises, Tenant will not be obligated to indemnify and hold harmless as set forth above.

9. INSURANCE. Prior to execution of this Lease by Landlord, the Tenant shall provide Landlord with a properly executed certificate(s) of insurance which shall clearly evidence the insurance required below, and provide that such insurance will not be canceled, except on thirty (30) days' prior written notice to Landlord.

- 9.1 Tenant shall maintain during the full term of this Lease commercial general liability insurance or equivalent form including Premises-Operations Liability, Products/Completed Operations Liability (if applicable), Contractual Liability, and Fire Legal Liability with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it will apply separately to this Lease.

- 9.1.1 This insurance shall include State of Minnesota as an insured with respect to



performance of Lease.

9.1.2 This insurance shall be primary with respect to any insurance or self-insurance programs covering Tenant, its officers and employees.

9.2 Tenant shall maintain during the full term of this Lease workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than \$500,000 each accident.

10. FIRE INSURANCE. Tenant shall not be required to keep the Premises insured against fire and extended coverage loss. Tenant shall make no claim against Landlord arising out of any loss to the Premises.

11. RIGHT TO ENTER. Tenant shall allow Landlord and Landlord's contractors and authorized licensees to enter upon the Premises for any of the following purposes: to survey the land, to take soil borings, to perform utility relocation or repair work, or to perform any other work which is preparatory to a highway construction project; also to make emergency repairs required for highway safety. If there is a highway bridge above any part of the Premises, Tenant shall allow Landlord to enter upon the Premises to inspect, maintain, and repair the bridge and its structural supports. If any of these operations substantially restrict the Tenant's use of the premises, rent will be reduced proportional to the restricted use of the Premises during the period of the restricted use. The reduction (or abatement) of rent will be Tenant's only claim against Landlord based on such restriction (or abatement) of use. Tenant shall allow Landlord to inspect the premises and to show the premises by appointment to prospective buyers or renters. Before entering the Premises for any of the purposes under this paragraph, Landlord will make a reasonable effort to notify Tenant, provided, however, that in case of an emergency affecting highway safety (the existence of which will be determined solely by Landlord), if Tenant is not present to permit entry onto the Premises, Landlord or its representatives may enter without notice to Tenant, and for such entry Landlord or its representatives will not be liable to Tenant.

12. ADJACENT HIGHWAY FACILITY. Tenant shall not permit the storage of any substance or material on the Premises which may create a fire hazard to the adjacent highway facility (including any overhead bridge and its structural supports). If Landlord determines that Tenant is using the Premises in such a way as to create a danger to the adjacent highway facility or the traveling public thereon, and if, upon receiving notice, Tenant does not immediately remedy the danger to the satisfaction of Landlord, then Landlord may immediately cancel this Lease and take possession of the Premises. Any requirement for giving notice of cancellation set out elsewhere in this Lease will not apply to cancellation under this section. Unearned rent paid by Tenant will be returned.

If a part of the Premises is situate under or adjacent to a highway bridge, Tenant acknowledges that Landlord's plowing and sweeping of the bridge may cause snow, ice, sand, or road sweepings to be pushed off the sides of the bridge or otherwise expelled off the bridge, falling onto the Premises. Tenant agrees that this risk is specifically included in the Tenant's indemnification and release of Landlord appearing elsewhere in this Lease.

13. ASSIGNMENT AND SUBLETTING. Tenant shall not assign this Lease or sublet the Premises. Notwithstanding anything to the contrary contained in this Section 13, Tenant may sublet the Premises one time during the term, without the consent of Landlord, provided:

- a. the operation being conducted in the Premises shall remain unaffected;
- b. the sublessee shall assume in writing the terms and conditions set forth hereunder to be observed and performed by Tenant;
- c. Within five (5) days after receipt by Tenant, Tenant shall pay to Landlord all revenue from any sublease;
- d. copy of such sublease shall be furnished ten (10) days prior to the effective date of the

- sublease; and
- e. nothing contained herein shall release Tenant from any of its liabilities or obligations hereunder.

14. CIVIL RIGHTS ACT. Tenant shall not discriminate on the ground of race, color, sex, or national origin against any person in access to and use of the facilities and services operated or otherwise maintained on the Premises; and Tenant shall operate and maintain such facilities and services in compliance with Title VI of the Civil Rights Act of 1964, and Title 49, Code of Federal Regulations, Part 21.

15. DEFAULT BY TENANT - LANDLORD'S REMEDIES. The following occurrences are "events of default":

(a) Tenant defaults in the due and punctual payment of rent, and such default continues for five (5) days after notice from Landlord; however, Tenant will not be entitled to more than one notice for default in payment of rent during any twelve month period, and if, within twelve months after any such notice, any rent is not paid when due, an event of default shall have occurred without further notice.

(b) Tenant breaches any of the other agreements, terms, covenants, or conditions which this Lease requires Tenant to perform, and such breach continues for a period of thirty (30) days after notice by Landlord to Tenant.

At any time after the occurrence of either of the above events of default, Landlord may terminate this Lease upon giving written notice to Tenant and may then re-enter and take possession of the Premises in such manner as allowed or provided by law. Tenant shall pay Landlord all costs and expenses, including attorney's fees, in any successful action brought by Landlord to recover unpaid rent, or to recover damages for breach of any of the other covenants, agreements, terms, or conditions which this Lease requires Tenant to perform, or to recover possession of the Premises.

16. HOLDING OVER. If Tenant remains in possession of the Premises after the end of this Lease with the consent of Landlord, express or implied, Tenant shall occupy the Premises as a Tenant from month to month, subject to all conditions, provisions, and obligations of this Lease in effect on the last day of the term.

17. MOVING OUT. At the expiration or sooner termination of this Lease, Tenant shall leave the Premises in as good condition as when delivered to Tenant (except for ordinary wear and any loss covered by insurance payment to Landlord).

18. SALE OR TRANSFER OF PREMISES. If Landlord sells or transfers the Premises, Landlord's liability for the performance of its covenants under this Lease shall end on the date of the sale or transfer, and Tenant shall look solely to the purchaser or transferee for the performance of those covenants.

19. RELOCATION ASSISTANCE: Persons, businesses, farms, non-profit organizations, and other entities (hereinafter collectively referred to as Tenant) displaced by cancellation or termination of this Lease, or by moving out prior to cancellation or termination of this Lease, are not classified as "displaced persons" and are not eligible for relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and its amendments. By signing this Lease, TENANT affirms that they are not a displaced person.

20. HAZARDOUS SUBSTANCES. Tenant shall not cause or permit any pollutant, contaminant, or hazardous substance wastes, or material to be used, stored, generated or disposed of on or in the Premises by Tenant, Tenant's agents, employees contractors, or invitees, other than those pollutants, contaminants, or hazardous substances, wastes, or materials commonly associated with operation of Tenant's use. If pollutants contaminants, hazardous substances, wastes, or materials are used, stored, or generated in any manner, or if the Tenant has caused or allowed the Premises to become contaminated in any manner by pollutants, contaminants, or hazardous substances, wastes, or materials during the term of this Lease, Tenant shall indemnify and hold harmless the Landlord in accordance with Section 8 of this Lease. This indemnification is intended to, and shall, survive the termination of this Lease. Without limitation of the foregoing, if Tenant causes or permits the presence of any pollutant, contaminant, or hazardous substance, waste, or material on the Premises and that presence results in contamination, Tenant shall promptly, at its sole expense, take any and all necessary actions to return the Premises to the condition existing prior to the contamination. Tenant shall first obtain Landlord's approval for any such remedial action.

- (a) As used herein, "hazardous substance(s)" means any substance, material, or waste that is toxic, ignitable, reactive, or corrosive, and that is regulated by any local government, State of Minnesota, or the United States government.
- (b) Any pollutant, contaminant, or hazardous substance, waste, or material permitted on the Premises as provided above, and all containers therefor, shall be used, kept, stored, and disposed of in a manner that complies with all federal, state, and local laws or regulations applicable to those pollutants, contaminants, or hazardous substances, wastes, or materials.
- (c) Tenant shall not discharge, leak or emit, or permit to be discharges, leaked or emitted, any material into the atmosphere, ground, sewer system, or any body of water, if that material (as is reasonably determined by the Landlord or any governmental authority) does or may pollute the same, or may adversely affect (a) the health, welfare, or safety of persons, whether located on the Premises or elsewhere, or (b) the condition, use, or enjoyment of the land.

21. LEASEHOLD IMPROVEMENTS. Tenant and Landlord acknowledge and agree, Tenant may make improvements to the Premises pursuant to the plans and specifications approved by Landlord's Metro Division Permits Office, which approvals shall not be unreasonably withheld or delayed. Such improvements shall be at Tenant's expense and may include a five foot (5') in height perimeter security fence, grading and bituminous paving on the Premises.

At anytime during the term, if Landlord in its sole opinion determines the grading and the drainage is adversely affecting the surrounding property, Tenant shall make such reasonable changes/improvements to the grading as requested by Landlord. In addition, at the expiration or earlier termination of the term, Landlord has the option to require Tenant to remove any improvements (including the security fence and grading) and restore the Premises to its condition at the commencement of the Lease. Landlord shall provide a thirty (30) day prior written notice to Tenant advising of the Landlord requirement to remove the Tenant-made improvements from the Premises. In the event Landlord does not require Tenant to remove such improvements from the Premises upon Tenant's surrender of the Premises the Tenant-made improvements shall become the property of Landlord.

22. ENTIRE AGREEMENT. This Lease contains the entire agreement between Landlord and Tenant with respect to its subject matter and may be amended only by subsequent written agreement between them. Except for those which are set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to one another with respect to this Lease.

**TENANT**

CITY OF RICHFIELD

Signature Martin Kirsch

Print Name MARTIN KIRSCH

Title MAYOR Date \_\_\_\_\_

Signature Samantha Orduno

Print Name SAMANTH ORDUNO

Title CITY MANAGER Date \_\_\_\_\_

CORPORATE ACKNOWLEDGMENT FOR TENANT

STATE OF Minnesota )  
 ) ss.  
 COUNTY OF Hennepin )

CORPORATE  
 On this 6th day of September, 2001.  
Martin Kirsch and  
 (Name) Samantha Orduno, personally  
 (Name) known to me, did swear that they are respectively the  
Mayor and  
 (Title) City Manager of  
 (Title) the City of Richfield (Name of Corporation)  
 a  
 corporation under the laws of the State of MN, and did  
 execute this instrument on behalf of the corporation by authority  
 of its Board of Directors on behalf of the corporation.

Julie A. Urban

NOTARY PUBLIC

My Commission Expires: 1-31-05

LANDLORD, STATE OF MINNESOTA  
 DEPARTMENT OF TRANSPORTATION  
 COMMISSIONER OF TRANSPORTATION

By K.F. Rasmussen  
 K.F. Rasmussen, Director  
 Office of Land Management

Date 8-11-01

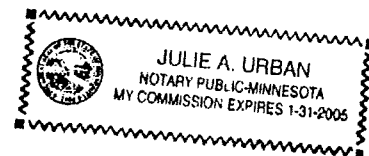
Approved as to form and execution

FOR THE ATTORNEY GENERAL

By Jeffrey L. Thayer

Title Assistant Attorney General

Date 10/18/01





ORIGINAL

August 1, 2001

## LICENSE AGREEMENT

THIS AGREEMENT made and entered into as of this 16TH day of AUGUST, 2001, by and between THE CITY OF RICHFIELD, MINNESOTA, a Minnesota municipal corporation, (hereinafter referred to as "Grantor"), and the TRANSMISSION SHOP, INC. , a Minnesota corporation (hereinafter referred to as "Grantee").

**WITNESSETH:**

### **BACKGROUND.**

Grantor currently holds an interest in the property that is the subject of this license agreement by virtue of a lease agreement between it, as tenant and the State of Minnesota, Department of Transportation (MnDOT), as Landlord. A copy of the lease agreement is attached hereto as Exhibit A. (hereafter referred to as the "Lease"). Grantee acknowledges that until such time as Grantor acquires title to the property, all of Grantor's rights to and in the property that is subject to this Agreement derive from the Lease, and are subject to the provisions and terms of the Lease.

### **ARTICLE I - GRANT, TERM.**

1.1 LICENSED PREMISES. In consideration of the fees, covenants and agreements herein reserved and contained on the part of Grantee to be performed, Grantor does hereby license to Grantee the tract of land located at 6945 Cedar Avenue, Richfield, Minnesota and located on land legally described in the attached Exhibit A (hereinafter referred to as the "Licensed Premises").

1.2 TERM AND EXTENSIONS. The term of this License shall commence on the Commencement Date, and, unless extended as hereinafter provided, will terminate June 30, 2006 or such earlier date as may be determined in accordance with the provisions of this Agreement. At the expiration of the term the Grantee agrees to vacate the Licensed Premises and deliver the same to the Grantor. Grantee acknowledges that as long as the MnDot Lease or its extension is in place, Grantor's ability to extend this Agreement is dependent upon whether the Grantor's Lease is extended. Grantor agrees that so long as Grantee requests an extension, and is not in default of its obligations hereunder, and further assuming that the use of the Licensed Premises remains appropriate, that it will utilize its best efforts to obtain an extension of the Lease, and if successful, will extend this Agreement as well. Upon the acquisition of the property, Grantor shall be entitled to terminate this License at any time following the giving of 180 days written notice of such termination. Provided, however, that such termination must be based upon a failure of the parties to agree upon an appropriate license fee applicable beyond the period described in Section 4.1. Grantor may also terminate the License after August 13, 2011 based on a good faith determination by the Grantor that the property along with the property owned by Grantee located at 6958 Cedar Avenue is needed for redevelopment or other public purposes.

## ***ARTICLE II - USE OF LICENSED PREMISES***

2.1 **GRANTEE'S USE.** During the term of this License, the Licensed Premises may be used only for the purpose of the temporary parking of passenger motor vehicles for continuous periods of not more than seven days. At Grantor's written direction, the Grantee shall immediately remove from the lot any vehicle, equipment or item that does not in Grantor's reasonable judgment comply with that purpose.

## ***ARTICLE III--IMPROVEMENTS***

3.1 **CONSTRUCTION OF IMPROVEMENTS.** The Grantor, acting through its City Council has previously approved the plans and specifications and authorized the advertisement for bids on construction of the parking lot. (City Project 917-25-957, the "Project"). Subject to its ability to award the contract, the Grantor will commence and prosecute to completion the construction of the parking lot and related site work all as described in the approved plans for the Project. It is anticipated that the work will be completed so that the parking lot will be available for use by September 15, 2001.

3.2 **PAYMENT OF COSTS OF IMPROVEMENTS.** The Grantee shall be responsible to the Grantor for reimbursement of Grantor's expenses incurred in connection with constructing the Project including the transplanting of any trees that need to be moved for construction. Following the tabulation of bids for construction of the Project, but prior to the award, the Grantor will confer with the Grantee as to the amount of the bids. Grantee shall deposit with the Grantor security in a form acceptable to the Grantor equal to 125% of the lowest responsible bid. The Grantor shall be entitled to draw upon the security to reimburse itself for payments made for construction of the Project. If the Grantee, for whatever reason, does not make such deposit, this Agreement shall become null and void, the parties shall be released from any further obligation hereunder, and the Grantor shall have no obligation to Grantee to construct the Project. However, the Grantee shall pay the project design and city administration costs incurred prior to the time that this agreement becomes null and void.

3.3 **COMPLETION OF CONSTRUCTION--COMMENCEMENT DATE.** Provided that Grantee is not in default of any of its obligations hereunder, and has fully reimbursed the Grantor for the cost of the Project, the Grantor shall make the Licensed Premises available to the Grantee upon completion of construction of the Project. The date on which Grantor notifies Grantee that the Licensed Premises are available (or such later date as may be stated in the notice) shall be the Commencement Date.

3.4 **TREE PRESERVATION AND PROTECTION.** Any trees that need to be removed for the construction shall be transplanted elsewhere on the parking lot site at a location designated by the Grantor. Furthermore, any tree that dies within one year of the Commencement Date shall be replaced by the Grantee with a tree of similar variety and of two and one-half inch caliper.

#### ***ARTICLE IV - LICENSE FEE***

4.1 LICENSE FEE. The parties have determined that the payments made by Grantee for the construction of the Project are equal to the fair value of the license for ten years. Consequently, the parties agree that for the term of the license, and for any extension thereof, not to exceed a total time of ten years from the Commencement Date, no license fee will be charged Grantee.

#### ***ARTICLE V - TAXES***

5.1. TAXES. The Grantee shall be responsible for all real estate taxes and installments on special assessments which are due and payable in any year following the Commencement Date and continuing until the termination of this Agreement or any extensions thereof.

#### ***ARTICLE VI - UTILITIES***

6.1 CHARGES. Grantee shall pay for all utility services furnished the Grantee for use on the Licensed Premises.

#### ***ARTICLE VII - MAINTENANCE AND REPAIRS***

7.1 ACCEPTANCE OF LICENSED PREMISES. The Grantee accepts the Licensed Premises AS IS, and WHERE IS with all faults and defects. Grantee shall be responsible, at its cost and expense to maintain and repair the Licensed Premises to the required standards of the City of Richfield, during the term of this Agreement. Grantee acknowledges that the Grantor shall have no obligation of any nature to maintain, preserve or repair the Licensed Premises.

#### ***ARTICLE VIII - ALTERATIONS***

8.1 NOTICE TO GRANTOR. Prior to the initiation of any alterations costing more than \$5,000, Grantee shall give Grantor written notice thereof and specify the work to be performed in reasonable detail and include the names of the contractors and materialmen to be utilized. After receipt of said notice, Grantor shall have a reasonable period of time during which it shall make a determination, in its sole discretion, whether or not to permit the work. Grantee shall provide Grantor upon request with any further information reasonably necessary for such determination by Grantor and Grantee shall not commence work or accept materials prior to receiving written notice of Grantor's determination.



***ARTICLE IX - DESTRUCTION AND RESTORATION***

9.1 DAMAGED. If a significant portion of the Licensed Premises shall be damaged by any casualty whether insured or uninsured, the Grantor shall have no obligation to repair or rebuild the Licensed Premises. Grantee shall have the option to rebuild or repair or to terminate this License by exercise of notice to Grantor.

***ARTICLE X - PUBLIC LIABILITY, INDEMNITY***

10.1 GRANTEE'S LIABILITY INSURANCE. Grantee shall during the entire term hereof keep in full force and effect a policy of liability and property damage insurance with respect to the Licensed Premises, and the business operated by Grantee, in which the limits of liability shall exceed the Policy limits which Grantee currently carries on the Licensed Premises to cover the automobiles that will be parked on the premises..

10.2 INDEMNIFICATION. Except for claims arising out of the willful or negligent act of the other party or its representatives, each party shall indemnify and defend the other party against all claims, expenses and liabilities incurred, including reasonable attorneys' fees, in connection with loss of life, personal injury, or property damage arising out of any occurrence in, upon or at the Licensed Premises, or the occupancy or use thereof by said party, or occasioned wholly or in part by any act or omission of said party, its agents, employees, contractors. This provision shall not be deemed as a waiver of any statutory liability limits available to Grantor.

***ARTICLE XI - ASSIGNMENT AND SUBLICENSING***

11 NO ASSIGNMENT BY GRANTEE. Grantee may not assign this License to a third party, including, without limitation, a purchaser of Grantee's business at 6958 Cedar Avenue, without the prior written consent of the Grantor.

***ARTICLE XII - GRANTEE'S DEFAULT***

12.1 EVENTS OF DEFAULT. The following events shall be deemed to be events of default by Grantee under this License:

- (a) Grantee shall fail to pay when due any payments or other charges provided herein, or any portion thereof and the same shall remain unpaid for a period of ten (10) days after the same has become due; or
- (b) Grantee shall do or permit to be done anything which creates a lien of record upon the Licensed Premises; and does not cause said lien to be released within ten (10) days after written notice from Grantor; or

(c) Grantee has failed to comply with any other provision of this License and has not cured any failure within thirty (30) days, [five (5) days in the case of non-compliance with Section 2.1], or such longer period of time as may be reasonably required to cure such default, after Grantor, by written notice, has informed Grantee of such noncompliance.

12.2 GRANTOR'S REMEDIES. Upon the occurrence of any of the above events of default, Grantor may without providing a notice of termination, or without affording Grantee an opportunity to cure (except as to matters for which the right to cure is specifically given in this Agreement), immediately notify Grantee of such default and may, with such notice, retake possession of the Licensed Premises.

12.3 COSTS, EXPENSES AND ATTORNEYS' FEES. If one party is required to seek legal counsel for collection or to commence or defend litigation in order to enforce or enjoy the covenants and agreements in this License, the party prevailing in such collection, litigation shall have the right to reimbursement from the other party of all reasonable costs, expenses and attorneys' fees.

### ***ARTICLE XIII – GRANTOR DEFAULT***

13.1 DEFAULT NOTICE TO GRANTOR. Should Grantor default in the performance of any of the covenants on the part of the Grantor to be kept or performed and such default shall continue for ten (10) days after written notice to Grantor from Grantee specifying such default, Grantee shall have the same remedy as is available to the Grantor in section 12.2 above.

### ***ARTICLE XIV - MISCELLANEOUS PROVISIONS***

14.1 COVENANT OF QUIET ENJOYMENT. Grantee, subject to the terms and provisions of this License, on payment of the license fee and observing, keeping and performing all of the terms and provisions of this License on its part to be observed, kept and performed, shall lawfully, peaceably and quietly and exclusively have, hold occupy and enjoy the Licensed Premises during the term hereof without hindrance or objection by any persons lawfully claiming under Grantor.

14.2 ACCESS TO LICENSED PREMISES. Grantee shall allow Grantor and its officers, agents, assigns, contractors and employees access to the Licensed Premises during regular business hours, on 24 hours' prior notice for purposes of inspecting, surveying, testing and any other pre-demolition activities which are deemed necessary to the Grantor for purposes of reuse of the Licensed Premises. The Grantor will use reasonable efforts not to interrupt or disturb Grantee's business in the course of conducting said activities, and shall indemnify Grantee for any damage to inventory, stock, moveable trade fixtures and like items occasioned by such activities.

14.3 SURRENDER OF LICENSED PREMISES. At the expiration or termination of

Page 6

this License, Grantee shall surrender the Licensed Premises in an "as is" condition, but may remove therefrom all advertising signs and devices and all other property placed on the Licensed Premises by Grantee. All such items not removed shall forfeit to and be deemed the exclusive property of Grantor.

14.4 LIENS. Grantee agrees not to suffer or allow any liens to be placed against the Licensed Premises as a result of Grantee's activities during the term of this Agreement; including, without limitation any liens for labor or materials provided for any repair, maintenance, modification, alteration or construction of the Licensed Premises.

14.5 NO DAMAGES, NO RELOCATION BENEFITS. Grantee understands and acknowledges that Grantor is willing to enter into this Agreement and carry out its obligations hereunder only because Grantee has agreed that it will make no claim for damages upon termination of this Agreement. Specifically, and without limitation of the foregoing, Grantee understands that upon the expiration or other termination of this Agreement, Grantor has no obligation to provide it with other parking, to compensate it for the value of lost parking, to compensate it for the impact of the lost parking on the value of the business, or on the income or profitability of the business, to acquire the business or any part thereof, to pay or offer relocation benefits or relocation assistance.

14.6 NO PROPERTY INTEREST. This instrument is not a lease, creates no landlord-Tenant relationship, and nothing in this Agreement will be deemed to create any property interest other than as expressed in this Agreement.

14.7 GOVERNING LAW. The laws of the State of Minnesota will govern the validity and interpretation of this Agreement.

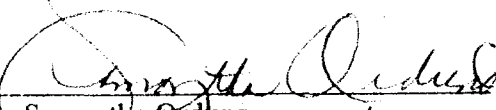
14.8 NOTICES. Any notice which is required under this License shall be deemed "given" upon hand delivery or three (3) days after prepaid posting in the U. S. Mail whichever shall first occur.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures the day and year first above written.

**GRANTOR:**  
THE CITY OF RICHFIELD

By:   
Martin Kirsch

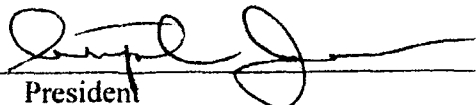
Its: Mayor

By:   
Samantha Orduno

Its: City Manager

**GRANTEE:**

TRANSMISSION SHOP, INC.

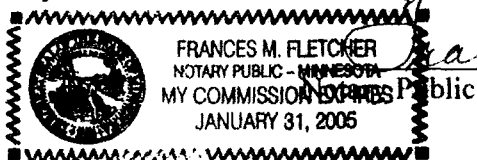
By:   
Its: President

STATE OF MINNESOTA }

SS.:

COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this 16 day of August, 2001, by Martin Kirsch, the Mayor of the City of Richfield, a Minnesota public corporation, on behalf of the corporation.





STATE OF MINNESOTA }

SS.:

COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this 16 day of August, 2001, by Samantha Orduno, the City Manager of the City of Richfield, a Minnesota public corporation, on behalf of the corporation.



FRANCES M. FLETCHER  
NOTARY PUBLIC - MINNESOTA  
MY COMMISSION EXPIRES  
JANUARY 31, 2005

Frances M. Fletcher  
Notary Public

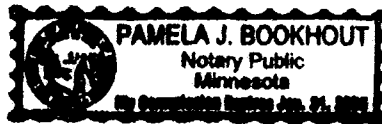
STATE OF MINNESOTA }

SS.:

COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this 8th day of August, 2001, by Stephen D. Jensen, the President of Transmission Shop, Inc., a corporation under the laws of the State of Minnesota, on behalf of the corporation.

Pamela J. Bookhout  
Notary Public





Parking Lot at Cedar Avenue and Diagonal Boulevard





# STAFF REPORT

## CITY COUNCIL MEETING

### JUNE 24, 2014

REPORT PREPARED BY:

BETSY OSBORN, SUPPORT SERVICES  
MANAGER

DEPARTMENT DIRECTOR REVIEW:



NAME, TITLE  
*[Signature]*  
SIGNATURE

OTHER DEPARTMENT REVIEW:



N/A

REVIEWED BY CITY MANAGER:



NAME, TITLE  
*[Signature]*  
SIGNATURE

#### ITEM FOR COUNCIL CONSIDERATION:

Consideration of the issue of new on-sale intoxicating and Sunday liquor licenses with the optional 2:00 a.m. closing for Last Call Operating Co II, Inc., d/b/a Champps Americana, 790 66th Street West.

#### I. RECOMMENDED ACTION:

**By Motion: Approve the setting of a public hearing to be held on July 22, 2014, for the consideration of new on-sale intoxicating and Sunday liquor licenses with the optional 2:00 a.m. closing for Last Call Operating Co II, Inc., d/b/a Champps Americana, 790 66<sup>th</sup> Street West.**

#### II. EXECUTIVE SUMMARY

On April 21, 2014, the City received the application materials for new on-sale intoxicating and Sunday liquor licenses with the optional 2:00 a.m. closing for Last Call Operating Co II, Inc., d/b/a Champps Americana. All required information and documents have been provided. All licensing fees have been received.

#### III. BASIS OF RECOMMENDATION

#### A. BACKGROUND

- Applications for new on-sale intoxicating and Sunday liquor licenses with the optional 2:00 a.m. closing for Last Call Operating Co II, Inc., d/b/a Champps Americana were received by the City on April 21, 2014.

#### B. POLICY

- City ordinance requires the City Council to conduct a public hearing to consider all on-sale intoxicating and Sunday liquor license applications and a date be set for the public hearing prior to the hearing.
- The hearing must be scheduled and held before a new license may be considered.
- The new process has been initiated.

#### C. CRITICAL TIMING ISSUES

- Holding the public hearing on July 22, 2014 will provide ample time to complete the licensing process.

#### D. FINANCIAL

- N/A

#### E. LEGAL

- N/A

#### F. ENVIRONMENTAL CONSIDERATIONS

- N/A

#### IV. ALTERNATIVE RECOMMENDATION(S)

- Reject the application for new on-sale intoxicating and Sunday liquor licenses with the optional 2:00 a.m. closing for Last Call Operating Co II, Inc., d/b/a Champps Americana.
- Schedule the hearing for another date. However, this may delay the licensing process.

#### V. ATTACHMENTS

- None

#### VI. PRINCIPAL PARTIES EXPECTED AT MEETING

- N/A